

**Milton Town Council Meeting
Milton Library 121 Union Street
Thursday, March 13, 2014, 6:30pm**

1. Call to Order – Mayor Jones

2. Moment of Silence

3. Pledge of Allegiance to the Flag

4. Roll Call – Mayor Jones

Vice Mayor Booros	Present
Councilman West	Present
Councilwoman Patterson	Present
Councilman Coté	Present
Councilman Collier	Present
Mayor Jones	Present
Councilwoman Parker-Selby	Absent

5. Public Participation

- Nina Martin: I'm speaking for myself and Robert Hendricks and I would like to read off the question. How did you derive at your decision to tax the solar panels leased and at the rate you did? Did you research other jurisdictions in our area? Assuming you did your due diligence, prior to the decision to tax green energy users, what were your survey results? And I'd like to add one other thing, for myself. When the Federal Government has given us tax credits to go green, I am shocked that Milton is taxing us. It seems in direct opposite.

Mayor Jones: Ms. Martin, it is on the agenda this evening to talk about, so I believe if you bear with us until that portion of the agenda, you'll understand where we're going with that.

Nina Martin: Very good.

Mayor Jones: Thank you.

- Ed Kost, 230 Sundance Lane: I'm here to talk about Cannery Village streets. It's on your agenda tonight, so I won't waste any of your time discussing that. I'm assuming that it will be discussed tonight. I do have a question though. I just noticed the _____ required off-street parking spaces by permitted use; single family dwelling unit, two spaces; townhouses, 2-1/2 spaces. I live in a townhouse. There's no difference between the number of people living in a townhouse and a single family dwelling. If someone could explain that when you get to that part of your discussions or that part of your agenda, I'd appreciate it. Thank you.
- Ed Harris, 305 Behringer Avenue: At the risk of sounding kind of redundant, I have a comment about the water tower. I did a little research. I know you all are busy and have full schedules and I called several towns and I've been going back and forth to Washington and I passed by the Denton water tower and I thought, you know it always look nice. It's always been painted, taken care of and I talked to the Public Works Department over there and he gave me some information. He's going to give me some

more information tomorrow and I don't know whether the town has entered into a contract with the company that currently paints the water tower, whether they're supposed to be doing maintenance on it, but if they are, they're getting by with murder from what this gentleman has told me. Anyway his name is Scott Getchel and I'll give you the information before I leave tonight so you can talk to him and he'll also give you the name of the company that they're using. What they do is they enter into a contract to have the water tower maintained. The company is responsible for coming in, taking a look at it and surveying it on an annual basis and then they take care, as far as maintenance is concerned. He also mentioned the possibility of an insurance policy that you can acquire to cover issues like this. I asked him if he had any information about algaecides put in paints. There are algaecides that they can be putting in paints and there's no reason for that water tower to discolor like that, so soon. So that company has been getting by with murder for years, because every year we go through the same situation. They also have the color and also the lettering, the Old English lettering that I had mentioned to you. That's number one. Number two, I want to address and I've addressed this numerous times. As a matter of fact, I've been living here for 20 years and I think I've stood in front of numerous Councils, even during my short stint on the Town Council, about the situation with downtown Milton and the lack of business. Every other town, if you look at them, from Rehoboth north; as I've said, I've been here 20 years now. We have a lot of vacant buildings downtown. If you look at other towns like Milford, look at the growth that's taken place; any town in the area; Milton seems to be left behind. We've got problems folks, whether you want to admit it or not and it's not just this administration. It's been going on for years. We need to address why we do not have a vital downtown and whether it involves hiring someone to come in and take a look. I really think it's important for all of us as far as property owners, as far as attracting business here, as far as attracting potential buyers for real estate agents. We're doing something wrong and we need to figure it out and figure it out soon, because here we are with an up-spin in the economy and we're not seeing... yes we have people that are buying property, but we're not seeing it developed. We're just seeing them sit again, so that's a major concern of mine. Also, I just think we need to take a look at any new projects that are coming into the town in the future. I know we're taking a look at one in particular that's going into the center of the Town and my concern is, I've seen projects come into this Town over the last 20 years, and they seem to be their own little communities, and that's caused a lot of problems in the past and if you could look at a lot of folks that come and see you and have problems with the streets and the lighting. I think we can avoid that, whatever projects do come into the town in the future, take a look at the successes. I'll give you one for example, look at Preserve on the Broadkill. It's seamless. It's part of the town. There isn't a separate sign that says you're entering Preserve on the Broadkill. It's just another part of the Town of Milton. It alleviates also the separatism that we seem to find. I come in and talk about my community; somebody else comes in and talks about their community. It really should be the whole town, because we all are one unit here, so in the future I would appreciate you taking a serious look at any plans that are coming into the town to make sure it's seamless; not another division; not another separate development within the Town of Milton. Thank you.

- John Sertrich: I'm just here on behalf of the solar industry, I guess, to listen and if there's ever a chance to put any input into what you guys are discussing on new business tonight, as far as delineating between people owning solar and the ins and outs of

leasing solar and how quickly that could be taken off somebody's house if they didn't pay for it, so I just wanted to make sure that we had some sort of discussion or that you guys had some sort of discussion as far as the difference between a permanent attachment to a house and a temporary attachment to a house when it comes to property taxes. If there is a chance to discuss it when it comes up on the agenda, I would love to have any input that I could.

Mayor Jones: I don't know that there will be that opportunity.

John Sertrich: Okay, so is this is the first time it's hit the agenda as far as the Town Council meeting has gone.

Seth Thompson: This is the first reading of that ordinance. That's right. Obviously it was discussed at the property tax appeal meeting, but the draft ordinance, this is its first reading.

John Sertrich: Okay, thank you.

Nina Martin: At the last Council Meeting, we were told that John had been contacted. We had talked to him many times and he said no one had ever contacted him. I believe it was the secretary was very emphatic that you did. I think at this time, with John being here, that needs to be addressed, because we do not understand if he has or if he hasn't. Who's right here? Thank you.

Kristy Rogers: The only contact I've had, was the first inquiry about how we handled the process and my response back was how the town... we received a building permit, when it was finalized, it went to our assessor and explained the process of how we then included the assessment on the property. That's the only contact I've had and that was in May, 2013.

Mayor Jones: Does that answer your question?

Nina Martin: I don't feel that that's what we were led to believe that was resolved with John that she had talked to him. So, I mean, if you've had an executive session.

Mayor Jones: Okay, I believe we've established that Mr. Serteck was contacted back. Did you receive information?

John Sertrich: She explained the process. I don't know what else is going on. All I've heard is mixed pieces so, yes, she answered the question about how the process works.

Mayor Jones: Okay. Are there any others?

- Jim Welu: Before I start my remarks, I think everybody ought to look at the local paper and the nice, excellent article on the Patterson Art Exhibits. It's a very good article. When the article came out last week and again this week in each of the two local newspapers about the Truitt/Draper proposal coming before the Town eventually, one of the first comments I heard was oh no, not Mr. Draper again after Cannery Village. And I said no, no, no, no, no. That is not the problem. The problem with Cannery Village was not Mr. Draper. He proposed, but the town accepted. It's not going to happen again on another parcel with Mr. Draper and this current Town Council and the Planning and Zoning Commission. What I would like to address is there seem to be two competing influences on this particular tract of land. You can take the property from Union Street over to Mulberry Street and along both the side streets, which is really part of the historic Town of Milton and then you can take the property on the other side of Mulberry Street, which is Shipbuilder's Village and the question I think before the Council and before Planning and Zoning is, do we want this to reflect the town from Union Street to Mulberry Street with its historic structures, or do we want it to reflect the most recent development in that area, which is Shipbuilder's? And I suspect that the town, in general,

I would hope, would want to have it reflect the old town, be part of the old community of Milton and reflective of it and it's architectural style. I think it's about eight acres, which means that under a single family zoning, 10,000 square foot per lot, there's probably room for 24+/- homes and I think that would fit in very well within the community and I think the Town really ought to look at that. It's kind of ironic just within the last few weeks we began the discussion of a Comprehensive Plan for the Town of Milton and I don't think if there's any movement for a rezoning, I don't think it should happen until the Comprehensive Plan is completed. I think to do anything before that in terms of rezoning would be really out of order in terms of the current and future planning for this town. The only other thing I was thinking about is we have a nice large parcel, partially in the town and partially outside the town on Bay Avenue, between the Royal Park Apartments and County Road, owned by the Railey(?) family. They had come in a few years back and wanted to do a sub-division, annexation into town with 5,000 square foot lots to reflect the size of the lots in the new development, which is between Bay Avenue and Atlantic Avenue and between Hazzard Street and County Road. That area potentially in a future Comprehensive Plan might be a more appropriate site for the type of development that Mr. Draper is proposing. What he's proposing would fit in somewhat with the apartments at Park Royal and smaller lots, even for single family homes, would fit in in that area, reflective of the community on the south side of Bay Avenue. I'm done.

Mayor Jones: Thank you.

6. Additions or Corrections to the Agenda

Mayor Jones: Having looked at the agenda, are there any additions or corrections?

7. Agenda Approval

Mayor Jones: Hearing none, do I hear a motion to approve the agenda?

Councilman West: I make a motion that we approve the agenda.

Councilwoman Patterson: Second.

Mayor Jones: All those in favor say aye. Opposed. Motion carried.

8. Presentation by PKS & Company – 2013 Audit

Mayor Jones: This is a presentation by PKS & Company, this is our 2013 Audit Report.

Leslie Michalik, Manager with PKS & Company: Good evening and thank you for having us here tonight. I have my colleague, Ginger Heatwhole, who's also an audit manager with the company and back here is Michael Kleger, who's one of our firm's partners. We did an audit of the town's Financial Statements for the year ended September 30, 2013 and issued our report on that. Now we've discussed the report in detail with your Town Clerk and the Treasurer of the Council, so our purpose here tonight is really is just to make a formal presentation and to hit some of the highlights in the report. I don't know if you have a copy in your packet of the Financial Statements, but our audit opinion is actually on pages 1 and 2 of the Financial Statements and in that report it states the Financial Statements are the responsibility of the management of the Town. Our responsibility is to express an opinion on those Financial Statements, based upon our audit procedures. Our opinion is on page 2, in the first paragraph on page 2 and it states that in our opinion, the Financial Statements present fairly in all material respects, the financial position of the Town of Milton, Delaware, as of September 30, 2013 for the year then ended, in conformity with Generally Accepted Accounting Principles and this is

called an unmodified, or a clean opinion, and is the highest level of assurance that we can give on the Financial Statements. That's the type of opinion you're striving for. In addition, we have to perform an audit in accordance with government auditing standards, which requires us to look at two things. It requires us to look at whether or not the town has complied with all applicable laws, grant agreements, contracts and during our audit we did not find any instances where the town did not comply with any of those things. That's a good thing. We also look at the town's internal accounting controls and report any matters that we consider to be material weaknesses in your controls and we did not note any material weaknesses in the town's internal accounting controls for the year. We did issue a management letter, which had some recommendations for some changes or improvements in your accounting controls. The items listed in there were relatively minor, in fact the majority of them have already been implemented since the date of our audit. I'm going to turn it over to Ginger and let her go through some of the numbers in the report.

Ginger Heatwhole: I believe you have in your package about a four page report with the numbers on it and that's what I will be referring to. On the first page you have a Financial Highlights of the General Fund for the year ended September 30, 2013 and if you look towards the bottom of the page, you'll note that during 2013, you had a decrease in your fund balance of about \$15,000, compared to an increase of \$190,000 in the prior year. That is a 2% decrease from last year's fund balance. The fund balance at the end of the year is \$973,322. Of this amount, \$2,829 is non-spendable for pre-paid expenses and then \$262,646 is restricted for transfer fees and your Municipal Street Aid, which leaves you with \$707,847 of unassigned funds. This represents approximately five months of your average expenditures. So if you turn to page two, what we have is a chart showing you your General Fund revenue by source, for the year ended. Your total revenues for the year for the General Fund were \$1,711,000. The largest source of your revenues is, not surprisingly, taxes and assessments, which is 61%, or \$1,446,000. The other significant areas of revenue are your intergovernmental revenues of \$208,000, or 12%, and this is mostly your grants that you receive and then your licenses and permits, which is about 12% as well, or \$200,000. In comparison to last year, your revenues decreased \$102,000, or about 6%. If you look at page three, we have another chart which shows you a breakdown of your expenditures by category for the General Fund. Your total General Fund expenditures were \$1,726,000. The largest area in your expenditures, is your public safety, which is 49%, or \$851,000. The other large areas are your general government, which is 19% and then your Public Works and your Code Enforcement of 12%. So in comparison to last year, which was expenditures of \$1.6 million, your expenditures increased by about \$100,000, or 6%. If you look at your final page, we're going to take a look at your Utilities Fund for the year ended September 30, 2013. Towards the end of the page, you'll see that there's an increase in net assets for 2013 of \$113,000, compared to an increase in net assets of \$79,000 for the prior year. Your total operating revenues were up \$825,000 vs. \$805,000 for the prior year, which is an increase of 2%, or \$19,000. Your Operating Expenses for the year were \$748,000 vs. \$745,000, or a \$3,000 increase, which is less than \$1,000, so at the end of the year, when you look at your Utilities Fund, your total net assets are about \$2,100,000. Of this \$1,554,000 is invested in Capital Assets; \$333,000 is restricted for Impact Fees; and then you have a remaining \$782,000 in unrestricted assets. There's a lot of numbers, but at the end of the day you're in a good financial position and if you have any questions, we'll be happy to answer them.

Mayor Jones: Thank you very much.

Leslie Michalik: I would like to thank Councilman Coté and your Town Manager, Mrs. Rogers, for their help, especially Kristy who works very hard to make sure she's got everything in line

for us and to make the audit go as smoothly as possible, so we appreciate all of her help.

Mayor Jones: I appreciate that.

9. Presentation and Approval of Minutes: January 6 and January 16, 2014

Mayor Jones: Have you had a chance to look over minutes from January 6th and January 16th? Any additions, corrections, notations to either set of minutes?

Councilman Collier: Motion to approve the minutes, as presented.

Councilman West: I'll second that.

Mayor Jones: Any discussion. All in favor say aye. Opposed. Motion is carried.

10. Mayor's Report

Mayor Jones: Just a little bit of information under my report this month. A particular thanks to the departments that worked here through the snow, our Public Works who are particularly down in manpower, as well, covering and doing a great job; the police who were here around the clock, as well, so a thank you to all of you. Appreciate your patience in getting the meeting this month off and started. I do want to talk about a schedule for our second quarter open forum, Town Council meeting open forum. The time is approaching and I just want you to look at your calendars. I'd like to recommend Saturday, April 26th. Easter is finished. The holiday is finished and it's not quite May, so we'll see about a place for that and make that a morning time. If anybody's schedule does not allow for that, would you let me know just as quickly as possible. I'd also like next month to bring forward and ask Council if they would consider a change in May's meeting date from the 5th, which is the first Monday according to our rules, to the 8th, that is a Thursday. I will be away from the area on the 5th and I have prided myself in not missing any of these meetings while on Council and I would surely like to ask the Council's indulgence for actually another year, to allow me to be here for May's meeting. So we'll put that under consideration for a vote next month. I think that's all I have for information tonight. I would like to say in particular in reference to the proposal on Mulberry and Willow, that I hope everybody in the room understands that there will be ample opportunity. This is going to come forward to us. This has not been introduced to Council, as of yet, so understand it will be a clean slate and I truly do trust in this administration to not repeat mistakes of the past and I'd like you to be assured that the Council and the town staff and the professionals have every intention of looking at things very carefully for you.

Councilman West: Madame Mayor, I've got a question on what you said about the May meeting. Why can't we have it the following Monday, instead of on Thursday?

Mayor Jones: Well actually Mrs. Rogers will not be available, as well.

Councilman West: Well I won't be available on the 8th.

Mayor Jones: Well, we could possibly make it the evening of the 7th, so we could put that up for the opportunity, the 7th. Again, I'm going to assume we need to vote, so that will come before us next month.

11. Discussion of Written Committee Reports

Mayor Jones: Mrs. Rogers did you want to comment on the election results? Thank you for the report in our packages.

Kristy Rogers: On behalf of the Board of Elections, I will go ahead and report the results. There were three candidates, Councilman Emory West, Councilwoman Esthelda Parker-Selby and challenger Gwendolyn Jones. The official election results were Councilman West receiving 132 votes; Councilwoman Parker-Selby receiving 176 votes; and Gwendolyn Jones receiving 72

votes.

Councilman West: I'd like to thank the public for reappointing me to Council.

Mayor Jones: You have an Historic Preservation Commission report from Mr. Kanakos and what looked like draft minutes from the Water Committee. Any discussion? I'd like to find out if the motion, since nobody's coming forth with this, if the motion that was taken at the Water Committee is meant to be presented to Council, or do you plan to do that during 14.a?

Councilman West?

Councilman West: That's fine with me.

12. Department Reports: Public Works, Planning & Code, Police

Mayor Jones: Hearing no discussion we'll go on to other reports. We have a monthly report from our Project Coordinator.

Councilman Coté: Mr. Davis, one question. In your report, you have a follow-up call to Chestnut Properties to discuss the status of completion of the ponding issues. I assume that's related... I'm making an assumption that that's related to the tank farm that's supposed to go in.

Robin Davis: That is correct. That was in conjunction with a call to Mr. Dyer to make him aware that it was being discussed at a meeting and basically, if he wanted to attend and I think at that same meeting he said that he was going to be out of town and wouldn't be able to attend that meeting.

Mayor Jones: Mr. Davis, the request for that Master Business List, I did not... if you forwarded that on to Mr. Trotta, I did not receive a revised copy of that.

Robin Davis: Mr. Trotta has updated it a couple of times and I do have the final version as of this week and I'll forward that to you.

Mayor Jones: Great.

Robin Davis: It is complete now.

Mayor Jones: Thank you. Anything else on Code or Planning? Do we have anybody here from the Police Department tonight? No. Okay, a couple of things I'll say then on the record, just to get them out so that we can try to fix this. My December report was actually in my February package, so I have one line that says month of January 2014 and then total complaints for December 2013, so somewhere that's a typo and since December was in February's package, I can only assume this is January, but the total number of complaints as listed, is 144, not the 118 listed. I'm beginning to have concern about the number of alarms and whether or not we have some nuisance on our hands; where these alarms are located. I know Rehoboth right now is trying to develop a policy, simply because of the number of times the response happens, it becomes nuisance.

Seth Thompson: What type of alarm; a security alarm or a fire alarm?

Mayor Jones: What type of alarm. Well, it doesn't say, but because it's on the police side, I certainly will assume it is a security alarm and I can attest to two calls during the power outages that came in from Security Instruments for Town Hall, so I can what maybe a couple of those are for the month of February at least. So I was just interested as those numbers go up, if we could find out where they came from. Curious with five listed burglaries, if we had any arrests. There's a new listing for Casa checks and I wanted to know who requested that service and what that is. I also see under escort 16; and I wonder who requested that service and where we are escorting people to. I don't know what SussCom miss numbers are and I don't know what turfing is, unless it's similar to tagging. Perhaps that's what it is, but we have it as a complaint and I'm not sure what that is. Assist other agencies, under patrol data needs to be taken away from there, for another month. It already exists on the complaint list. So those are a few things

that I have from this report. We still are missing data under the box marked patrol data, door checks and man hours.

Seth Thompson: Madame Mayor, the only one that I can speak to... we did pass an ordinance toward the end of 2012 with regard to false security alarms. So there's something already in place if that's indeed the alarms they're responding to.

Mayor Jones: So we would need to know what that represented. Okay. Well I will work to try to get some answers for us. Are there any other comments on that particular report?

13. Finance Report and Revenue/Expenditures Report

Councilman Coté: Revenue and Expenditure Report looks great for January, because we sent out the tax bills and they all get recorded as income in January. And we've been collecting the money, so we can repay the savings that we've been using to get us to tax time.

Mayor Jones: A comment on the Budget Transaction Audit Trail; Page 7, under account 300-5430 Printing and Postage. There's a visor from Red the Tailor. My guess is that that is not Printing and Postage; actually because it shows up over here again under Uniforms. But what I wondered was, that over here it's only worth \$12.96, but over under Uniforms, it went to \$119.50; I wonder if that is a number of them? And that's on Page 8. I apologize, 300-5490 the last from the bottom.

Kristy Rogers: It looks like this invoice from Red the Uniform Tailor had multiple line items. I can speak with our accounting clerk to one make sure the line item in Printing and Postage is reclassified properly and look to see what that item may represent.

Mayor Jones: My guess is they're the same things. Yeah. Okay. Thank you. Anything else on the Finance Report?

14. Old Business – Discussion and possible vote on the following items:

- a. Request for commercial well to be installed at the Finish Line Car Wash – 204 Broadkill Road

Mayor Jones: A request from Mr. Parker. This consideration came to us last month. It was referred to the Water Committee. You have the February 26th minutes of that meeting. Councilman West?

Councilman West: As you all are aware of, if you've read this paper, the Water Committee wanted this tabled last month. The Water Committee also made three recommendations. The first one... and before I get into them, I'm going to say it has become that the Town has no policy regarding private wells yet. So the Committee recommended that the Town had the Solicitor opine on whether the Town can develop a policy while holding Mr. Parker's request in abeyance and it was seconded. The Committee approved the motion. They also request to engage Pennoni to gather examples of what neighboring communities have done, include charges for a water pump from private wells, Mr. Garde seconded that and the Committee approved the motion. Also, a motion was made that Mr. Parker's request be tabled until the information be provided in the above motions, can be returned and assessed by the Committee, assuming that the Council act affirmatively on the two motions outlined above. This was approved by the Committee. So I would like to make this a motion that we approve the recommendations of the Water Committee.

Mayor Jones: I have a recommendation, do I have a second? I have a motion, do I have a second?

Councilwoman Patterson: I second.

Mayor Jones: Any discussion?

Councilman Collier: My first question is Mr. Thompson, are you able to answer the first part of this overall motion about whether the Town can develop a policy, while holding this request in abeyance?

Seth Thompson: Certainly the Town can develop the policy. You have broad discretion under your charter in dealing with water. I would encourage the Town to adopt a policy, both for the benefit of the Council in knowing what standard you are applying to these requests; as well as for the applicant's; that if there's something in your Town Code, that they can refer to before they even apply, I think that's helpful. Somebody might be able to frame their case or bring whatever information that would be helpful to the Council in making the decision; they'd be able to organize that better, or if somebody realizes I'm not going to be able to meet that standard. I'm not going to bother to apply; I think that's also truly a benefit to the applicant or in that scenario a potential applicant and the Council as well. In terms of holding his request in abeyance, you don't have anything on your book currently that says you have to act within a certain period of time. I do know the applicant wants it to go forward, but you would be able to hold it in abeyance. Without any defined policy though, I think the law would say we need to act within a reasonable time frame. In other words, whenever there's not a code provision that gives a specific timeframe, I would tend to infer that it needs to be done within a reasonable timeframe and that would be the case with this, that when an application is submitted, pursuant to the Code and here it is saying that it's implicit, that somebody could ask for that written consent of that the Council, that the Council needs to act within a reasonable amount timeframe.

Mayor Jones: And to that end, actually on the first workshop, March 19th, that's just next week, that is on the agenda to review the Town Code 215, as it applies to water and the purpose is to get after it quickly, because it was identified. The other is that it's imperative that Council read through that material ahead of time, so as a workshop, we have the contribution to make here, instead of reading the material and I appreciate your opinion, however, the problem I have with the motion to accept is, that I do not believe we need to engage our engineering staff to find the information that the Water Committee needs. As a matter of fact, I believe, Mrs. Rogers and Mr. Wingo are working together right now...

Vice Mayor Booros: Madame Mayor, I spoke with the Town Manager in Georgetown to ask what their policy was, as well as went online to read the policy from the Town of Millsboro, because it was indicated that they had metered wells in Millsboro, that were being used for irrigation at the BJ's and the Lowe's; it's available right online, their policy, the rates, everything. I also don't believe that the motion to engage Pennoni to make the phone calls is in the best interest of the taxpayer's of this Town.

Mayor Jones: We want to make sure that the town staff feels that they do have the time to do that...

Vice Mayor Booros: I didn't say town staff, I said that there's a Water Committee that... I did it. It was no big deal. You sit down, you look it up, it's there.

Mayor Jones: I happen to believe this information is available to us through your networking abilities, Mrs. Rogers, with the information that's provided. As I understand the motion, as written, I believe that information can be gathered by town staff and be satisfactory to the Committee.

Seth Thompson: So the question now is whether... Councilman West, if you want to

amend your motion, you can. If not, you can just take a vote on that motion and then there could be a different motion if it doesn't pass.

Councilman West: Okay, then I'll amend my motion to withdraw to engage Pennoni and that we adopt the other two.

Councilwoman Patterson: And I second.

Mayor Jones: Question. Where is our vote on the recommendation of the tabling? Do we have any action that has to be taken right now?

Seth Thompson: Well you can't override the vote that happened with that public body, so in effect you're not... Maybe I misinterpreted the motion, but I think Councilman West was basically referring to their procedural posture, so that you guys would return that information and then they could go forward. I recognize that it really doesn't require any action on your part. The Committee would need to receive the information and then take the issue off the table and vote on it at that point.

Mayor Jones: Did everybody understand that? Do you understand? Does everybody... I don't quite understand that either. We have a recommendation from the Water Committee to table; we sent that on; they sent that recommendation back. The motion on the table is to accept the other two; which you've already answered the question about holding the request in abeyance; so are we talking about accepting the tabling of the request?

Seth Thompson: I initially read it that that was a motion at the Water Committee, to table it at the Water Committee level, as opposed to have it...

Councilman West: No. These recommendations were made at the Water Committee level to bring to Council.

Seth Thompson: So in other words, it's more a moratorium that the Committee was looking for?

Councilman West: Yes.

Seth Thompson: I see.

Councilman West: Until we get these issues resolved.

Seth Thompson: I see and I'm sorry for misunderstanding. I thought you meant the Committee was tabling it; but it sounds like it's...

Councilman West: No.

Mayor Jones: It doesn't say moratorium on my paper.

Councilman West: No, our recommendation was to bring it to the Council.

Seth Thompson: Okay.

Mayor Jones: A moratorium was not discussed at that Water Committee meeting.

Councilman West: Well that's what it would end up being.

Mayor Jones: That was not the term.

Seth Thompson: Right. So that I understand, were you just speaking in the context of Mr. Parker's application, or any application?

Councilman West: Any application.

Seth Thompson: Okay, so that does sound like more of a moratorium.

Mayor Jones: While we're discussing this, Mr. Parker, I want you to know that your time to speak definitely will be in front of the Water Committee, bear with us. Now, I have a problem of having both attended the meeting and the written word that specifically the motion was to table Mr. Parker's application.

Seth Thompson: I think it is difficult that somebody else looking at both the Water Committee minutes and then looking at our agenda today, that refers to an individual

request; it would be difficult for Council to adopt a moratorium on everybody in the sense that they really weren't put on notice that that could potentially affect them; and if they were put on notice, maybe somebody puts in their application yesterday.

Mayor Jones: Right now we have a motion on the table to... and a second, is that correct?

Seth Thompson: Yes.

Mayor Jones: To accept the two. Before I vote, be specific what we're talking about again here, because I think there's conflict in the vote.

Seth Thompson: I think unfortunately it isn't very clear and I want the Council to be clear on what they're voting on. Certainly the one issue obviously relates to me and what we can do with the pending application; the second one, on its face, seems to refer to Mr. Parker's request; but as I understand Councilman West the Committee's intent was broader than that. I think that's difficult.

Vice Mayor Booros: I was also in that meeting and the Committee tabled it until they got this information back from Council. So the Committee has already tabled it at the Committee level I don't think that that portion of this motion; they've already tabled it at their level. They also said they would have Mr. Parker come back at the next meeting, when they brought it back and got the information from Pennoni, or whoever got the additional information. It's already been tabled at that level and I don't think we should be voting on the tabling of that.

Seth Thompson: We can't lift their action.

Vice Mayor Booros: Right.

Councilwoman Patterson: So they tabled it for more information?

Vice Mayor Booros: For more information.

Councilwoman Patterson: Some was from our Town Solicitor and one was from gathering other information; so we've got some information from the Town Solicitor, but we still don't have the rest of the information...

Vice Mayor Booros: And it's already been tabled at that level, so it shouldn't be coming back to us until after they've finished with it and come back to us with a recommendation.

Councilwoman Patterson: Right and that's... okay. I've got you now.

Councilman West: But the Water Committee wants what is best for the Town and Mr. Parker.

Seth Thompson: It sounds to me like the Water Committee would like the Council to go forward on adopting some sort of policy, so that the Water Committee can then apply it to Mr. Parker's application.

Vice Mayor Booros: And in the interim, they've already tabled Mr. Parker's application until we get them the information.

Seth Thompson: Correct.

Councilman West: As I'm seeing, we want what's best for both parties.

Seth Thompson: I think procedurally, the easiest route, it's already on the agenda for next week, I believe; that's the Workshop? It sounds like if the motion could be amended for the town staff to go forward in their project of acquiring information regarding other municipalities, so that that could be presented at the Town Workshop; does that work for you Councilman?

Councilman West: Yes.

Seth Thompson: Okay. Do you want to make that a motion? Does that work?

Councilman West: Okay, I'll re-amend my motion again that instead of engaging Pennoni, it would be the town staff and the Water Committee to engage in looking into things for our policy.

Councilman Collier: I'll second that.

Mayor Jones: Any further discussion? All in favor say aye. Opposed. Motion carried.

Councilman Coté: I'm still not clear on what we all voted for now, so mine is a no.

Mayor Jones: That's Councilman Coté.

- b. An ordinance to amend Chapter 220 of the Town Code, Entitled "Zoning", relating to antennas, towers, and satellite dishes (second reading)

Mayor Jones: The next several items were sent on to Planning and Zoning for an Advisory Opinion. Your first document was the Advisory Report back to us and the second is a draft of the proposed Ordinance.

Seth Thompson: Thank you Madame Mayor and Council. The Advisory Report references the issues that Planning and Zoning Commission considered, including "grandfathering" pre-existing, non-conforming dishes and antennas and I can tell you that the end result and... I guess that's probably... Well I'll just point out the issues and then as we go through the Draft Ordinance I'll see how the Planning and Zoning Commission resolved those. There was also the issue of complying with FCC requirements, as well as whether it was appropriate to divide treatment within the Historic Preservation District from the rest of town and then the final issue was removing a reference to fines on the Fee Schedule. That's a pet peeve of mine. The reasons for the recommendation, the Commission believes the ordinance is legally defensible using FCC's distinction for the Historic Preservation District vs. the rest of town, as well as allowing 18 months for compliance within the Historic Preservation District. Then the ordinance is generally consistent with other neighboring municipalities that have these types of ordinances and it preserves the aesthetics in the town, especially in the Historic Preservation District and has a stabilizing effect on the character of town, as well as on the economic value. So turning to the ordinance itself, if you look at Section 1 of the Ordinance, it's amending 220-21(g), which is in your Historic Preservation District Overlay and it's adding an additional requirement in the Historic Preservation District Overlay. There it says any antenna, tower, microwave dish or satellite dish for residences within the District and this is important; it says, or for any property within the district. "Or" is included on or is eligible for inclusion on the National Register of Historic Places, so in other words, you could have a property that's not in the Historic Preservation District, but this does apply to you because they're on or eligible for the National Register of Historic Places. It says those dishes or antennas shall only be located in rear yards or if not visible from the street level along the entirety of the front lot line, in side yards; so in other words if you're in the Historic District, or your property is one that can be included on the National Register of Historic Places, then if you're going to install an antenna, tower, microwave dish or satellite dish, it needs to be in the rear yard or on the rear of the property or if it's on the side, not visible from the full length of that front lot line, from the street level. It wouldn't matter if it was visible from 30 or 40'. Then it says, all reasonable effort shall be made to limit or eliminate the visual impact on the adjoining properties, such as screening by landscaping. So again, if you put it in the rear yard, you do need to take some reasonable measures and I know that's a fairly flexible term, but that's the term that the FCC has

used to screen that dish from the adjoining properties, from your neighbors. Then, again, this is only in the Historic Preservation District, or if it was eligible for the Registry, notwithstanding Article IX of the Zoning Chapter and Article IX has to do with pre-existing, non-conforming structures; all properties subject to this paragraph shall come into compliance within 18 months of the date of the ordinance's passage. So in other words, if you're one of those Historic District or National Registry properties, the way this is written, you would have 18 months from it's passage to come into compliance; basically to move your dish.

Vice Mayor Booros: There's one across the street from me, facing my house. My question is, or what?

Seth Thompson: Or, they're in violation of the ordinance; they get cited for it.

Councilman Coté: When you say get cited, what happens?

Vice Mayor Booros: What happens?

Councilman Coté: We seem to be removing references to fines, which would be a penalty if you...

Vice Mayor Booros: Are there teeth behind this ordinance that it can be enforced? Has this already been entered into DelJIS where you can...

Seth Thompson: It hasn't because it hasn't passed yet. We do have one in terms of large antennas, I believe...

Vice Mayor Booros: That's already in the system, the Code Enforcer can go write him a ticket?

Seth Thompson: This would need to pass, so that we could reference this new section. Do you know what I mean?

Vice Mayor Booros: I hear what you're saying.

Seth Thompson: I didn't remove any penalty, I removed the reference to a Fee Schedule, because I view fees as something you pay so that you're allowed to do something; a fine is something you pay because you did something wrong.

Vice Mayor Booros: Do we know what the fine is for violating this?

Seth Thompson: It's the \$100-\$350 per violation; each week being a violation. So that's how it works in the Historic District, or if the property is on or eligible for the National Registry. I'll focus your attention on Section 2 of the ordinance just removes the references to the Fee Schedule there. Section 3, notice it's similar language, except that this is within the rest of town, so it says, if you look in the middle, however, this restriction shall not apply to any property for which the owner, tenant or user provides evidence to the Town Code Enforcement Officer that the restriction unreasonably delays or prevents the use, the use unreasonably increases the cost of installation, maintenance or use or precludes receiving or transmitting an acceptable, quality signal. That language is in there, so that we're complying with the FCC regulation. Basically the Federal Law says that you can prohibit these things in Historic Districts or on historic properties, but if you're not in that Historic District, you can't have an unreasonable restriction in terms of interfering with the cost of installation. So, if somebody comes to the Town and says the provider, whether it's Dish Network or whomever, says they can only locate this on the front of my building, that's the only place I get a quality signal, the Town has to allow that at that point. The default is that it applies to them, but if they show that indeed they can't comply by putting it in the rear yard or in the side yard, not visible from the front line, then this ordinance doesn't apply to them.

Mayor Jones: Could we take these one at a time, like let's start on Page 1. Correct me,

we have a Historic District, not a Historic Preservation District. Is that correct?

Seth Thompson: I think it's called the Historic Preservation District Overlay, but let me...

Mayor Jones: That's a matter of wording for me, but a couple of things from the public point-of-view. First of all, in the entire piece, since you're referencing FCC's distinction for Historic Preservation, would that be a good thing to put on here someplace; that as of this date, this is the standard by which you're using and you did your research and that's where it came from, but under that first paragraph on the bottom. For resident's within this district, or is included on, or is eligible for inclusion... That is a tremendous number of homes spotted through this community that are eligible for inclusion and that creates a lot of pocket enforcement, because it's not just a district. If this were really applied to what I know as the district, it would be easier to understand, because it's going to apply to Mr. Filicko's house over on Bay Avenue because he came before us and asked us to put that connotation on his property and then he could go forward with it. So we have pockets.

Vice Mayor Booros: I remember when they were talking about enlarging the Historic District, they were talking about the Sears' homes...

Mayor Jones: Mr. Post's home may even qualify.

Vice Mayor Booros: Mr. Post's home was built in the early 1900's.

Mayor Jones: Exactly and that's a tremendous undertaking now. I know Mr. Davis did somewhat of a review, but I think the space was rather limited with the Historic group in Delaware. He got the 3-year grant, remember, but I don't think it covers a town wide enough to determine, but I think there are a great number of homes in this town that are eligible and could create a good deal of problem with that. If you want them in the backyard, put them in the backyard. This, if not visible from the street level, along the entirety of the front lot line, then it's okay to put them in the side yards...

Vice Mayor Booros: Madame Mayor, like I said, I live in the Historic District. I have one facing my house from across the street. My question would be, when somebody buys a home in the Historic District, like I did, I had no idea. So you go to move in and before you've even moved into the house, you've paid the dish company to come out and install this garbage at your house, and I've already put out the money, before I have the Code Enforcer six months from now banging on my door, telling me oh no, you can't have that in the Historic District, after I've already laid out the money. There are certain things in this District that at a settlement table, if the Town is going to provide... there should be something provided by this town about things like this, that don't take you by surprise when you move in and realize that you can't breathe in your house without going before somebody.

Mayor Jones: We need to establish, you're right, there's been a question of non-disclosure about some sales and wondering... I wondered often to myself, whose responsibility is that for disclosure? Is it the real estate, if it's a private sale I would assume that certainly the seller, at some point when the town becomes knowledgeable of the sale, that...

Vice Mayor Booros: The Homeowner's Association, the association would give you the by-laws before you hit the settlement table, an opportunity to read... but not in our Historic District and they're pretty extensive.

Seth Thompson: In terms of the normal real estate transaction, typically the settlement attorney does provide a copy of the covenants, or the Declaration of Restrict Covenants,

because those are recorded, so those are really part of the title search. They normally don't provide a copy of the Town Code, the onus is really on the person purchasing the property to have looked into that.

Mayor Jones: The last sentence on there that states all reasonable efforts shall be made to limit or eliminate; were not using the same terminology as the next page, which is 220-52, where each property owner, tenant and user shall make all reasonable efforts to limit or eliminate the visual impact which is a very nice way of please be a good neighbor and civilly put up a buffer or something that is aesthetically nice, but there doesn't appear to be anything really that requires. The other part of the 220-52, is the shall not apply to any property for which the owner, tenant or user provides evidence to the Code Enforcer. What evidence and evidence from whom? Who is the reliable source that a homeowner can hand to a Code Enforcer and say we cannot install this any other place, but in the front yard or on the front of the roof; because that's a variable for me. If the homeowner just says I can't do it any other place.

Seth Thompson: I think the intent was that the dish provider, or the dish installer, whoever the homeowner has contracted with to put in the dish, would provide that information, a third party.

Mayor Jones: Then I would feel better saying that someone of the company representing the utility, provide a letter to the town stating that the piece can't be put on the property at any other place. Otherwise, you'll just have nothing.

Vice Mayor Booros: To make a sale, aren't we letting the fox guard the hen house, if we let the guy who's selling you the dish, give you the certification that says, by the way I couldn't put it anywhere else but the front of this house because of the...

Seth Thompson: Apparently other towns have had success with the installers learning of their ordinance and then, instead of having to go through the process of moving the dish, they just go ahead and install it at the rear of the house, if that's possible and then work their way toward the front, if that's not; so I think your point is well taken, but it's like getting a parent's excuse for missing school, but you accept it from your friend, basically.

Vice Mayor Booros: I just don't want anyone else to go through anything I've gone through and to move into the Historic District, plop a dish up, and then be told to move it, or that they can't have it in the Historic District; because the houses across the street from me, where there's one where the dish is in the front yard, their back yard has these massive trees that you can't cut down in the Historic District, by the way, they're there and they'd get no reception in the back of that house. There's no other place for that person to put it other than the front yard and quite honestly, it was probably there for two years and I just noticed it. I think this needs work and I would make a motion that we table this or send it back to Planning and Zoning for some more meat, because I don't think there's meat here. I don't think you can enforce it. I don't know how you're going to enforce it.

Councilman Coté: One of the words we've been kicking around is eligible to be on the National Register of Historic Places. If I owned an older home, and I'm not on there, who determines that I'm eligible. It's not the National Register, because I didn't bother asking them.

Vice Mayor Booros: It won't be the guy selling the dish, I'll tell you that.

Councilman Coté: I don't know who determines that. Who has the authority?

Seth Thompson: I think at one point, the Town had a study performed in determining

who would have been eligible, so I think that would be the first resource, but it sounds like there are certain policy concerns with having it apply to properties not within the district itself. That's a policy decision and that could be one for very good reasons, for instance, it is difficult to know if the home complies, because that study might have been a few years old and low and behold a number of years passed and now there are more houses that are eligible; somebody buys a house, not realizing that in the time that's lapsed since the study, their home has become eligible. I understand the concern there. The District is the easier thing, in my mind. That somebody gets their property card and sees on there that they're in the Historic District. I think that's the easier route, but I think Planning and Zoning was concerned, if at some point, as time goes on we decide to expand the Historic District or we're really trying to preserve some of these older properties. Maybe the next owner wants to...

Vice Mayor Booros: Mr. Thompson, there are homes within the Historic District, like next door to me and two doors down from me, that the Historic District goes right around, so they can put it right in their front yard or on their roof or anywhere they want to put it and it's also within eyesight of my front door, because of the way the Historic District has been drawn. It zig zags all through town.

Seth Thompson: I assume they did that for non-conforming...

Vice Mayor Booros: So your next door neighbor can have one and be right next door to you and you've got to look at it, but they don't want to look at you.

Ed Harris: You've got to ask yourself if you want to have dishes in areas that aren't in the Historic District, do you want dishes going up Federal Street and up Union Street as you leave the town. It should be the whole town. There should be some sense of aesthetics where you don't put a satellite dish out in front of your house because you're _____ the whole community, not just the Historic District.

Vice Mayor Booros: But I think the FCC says you can't do that.

Seth Thompson: I think that's a different approach, an approach could be that the Historic District isn't treated any differently and there is the section that obviously applies to the town, outside of the Historic District, that it says they need to put it in the back or on the side, unless they can show that they need to put it on the front. It could be that that's what the Town Council decides is fair, because of the way the zig zagging Historic District works, we might as well just uniformly apply this; but these are policy decisions...

Councilwoman Patterson: You did say that certain towns have actually worked with the dish installers to try to understand that it is a Historic District, it is a historic town and that they should do everything in their ability to put them in the backyard or off the street from eyesight.

Seth Thompson: Right. Mark Quigley on the Planning and Zoning Commission did some work and talked to Georgetown and they've had success in having the providers comply with that, that at this point I think his indication was that it took a period of time to get things corrected, but then after that it really hasn't been an issue.

Mayor Jones: Mr. Thompson, also, on here there are a number of strikethroughs on some other issues on this. Is this old material or were we to address that?

Seth Thompson: You don't have to address it, it's just...

Mayor Jones: I'd like to.

Seth Thompson: I meant, you didn't have to pass that section of the ordinance. You can leave the references in the ordinance to fines being on the Fee Schedule. I guess then

you need to have a Fee Schedule that has fines on it though, because I don't think yours currently does.

Mayor Jones: Okay. If we're allowed to comment, because it has some strikethroughs and it would have called, or it would call for my signature at the end. Under the Penalty; we're on Page 2; we give a couple of scenarios about property owner not obtaining a building permit prior to commencing construction; obtained a building permit but the construction does not comply with what was previously approved. Those things that need to be done and if the property owner does not alter the construction, so as to be in compliance with what was previously approved by the Historic Preservation Commission, the property owner shall immediately make application for a building permit listing such changes in construction. My variation would be ceases working until changes are approved or denied by the proper committee. I mean, stop. You can be a building permit listing such changes in construction and then the property owner shall appear before the Historic Preservation Commission at it's next scheduled meeting. We can be six weeks, snow you can be longer. Building needs to stop when it is not in compliance with what was approved...

Vice Mayor Booros: Or what? I guess that's my problem all of these ordinances. Or what? They pay \$30. I think somebody told me that there's five times what you paid for the building permit, or something like that, is some of the penalties for not doing the right thing; not getting the building permit and it's cheaper to just do what you want to do and go back after the fact and ask for the building permit. It's done all the time. My neighbor's just did it with a roof.

Mayor Jones: Well and then I actually go on to Page 3 and this is about property owners demolishing structures without first obtaining a permit. The property owner shall appear before the Historic Preservation Commission at it's next scheduled meeting for that matter to be addressed. No building permit shall be issued for this property for a period from one year from the date to the demolition and the property owner shall cause the site to be cleaned up and secured to the satisfaction of the town. This is just like the demolition permits which are able to stretch out for a year and even from our Code Enforcer has given an indication to change that and reduce that time because someone who's demo'ing their own place, has a long duration to leave that place, half torn down and looking like it's not occupied. I would say at least that last statement, now listed as C, would have to give a period of time; how long that homeowner has to return that site to the town's satisfaction. So that would be a time limit and I see and I was part of the group when this was put on that they'll get a minimum fine of \$100,000; I think it was probably, as I understand it, not defensible in law; however, to just not be able to build on that plot and have an unlimited amount of time to clean it up, really hasn't sent any message to somebody who wants to demo something else and wait a year to go forward, because that's what happens there.

Seth Thompson: I think it's important to note that that language, if it's not struck through and it's not underlined, that's just currently the way the Code reads, so it could be that the Council wants to extend that period for longer as more of a deterrent for somebody to tear down an historically contributing structure; so in other words, if they can't build on the property for five years, maybe they're more likely to not knock it down without receiving a building permit beforehand.

Vice Mayor Booros: That's not what's on the agenda tonight. What's on the agenda tonight is satellite dishes.

Seth Thompson: Right. But I did want to address the one... you do have Stop Work Orders and that's under your building construction ordinance, so it's not that if somebody is building something that is not in compliance with their permit, they get to keep going; what would need to happen would be Code would need to go out and issue a Stop Work Order. It's just under a different Ordinance. That's why it's not in this section.

Vice Mayor Booros: Town Manager, do you know how many Stop Work Orders we've issued since you've been in Town Hall?

Kristy Rogers: None that I'm aware.

Vice Mayor Booros: None. Mr. Thompson, if we issued one and they didn't stop work, what would we do?

Seth Thompson: You can get an injunction. You can fine them. Really your Code does have teeth, it's just I take it people haven't used them.

Vice Mayor Booros: We've have apparently never bitten anything.

Seth Thompson: I guess that's right.

Vice Mayor Booros: I've got a motion on the table that this go back to Planning and Zoning for some adjustments.

Councilman West: Second.

Mayor Jones: My discussion is that I attended that Planning and Zoning meeting and I'm not sure Planning and Zoning was completely married to some of these topics coming to them, to start with; so that is voicing what I heard from the Commission and I'm not sure what the solution is, other than sending it back but...

Vice Mayor Booros: Then they could send it back to us and say that they don't want it; instead of sending it back with a recommendation that takes a super-majority to overrule.

Seth Thompson: The difficult, I think, from their perspective is if it's a policy decision, as opposed to some legwork to compare other municipalities in the area or getting some good language. I think it's difficult for them to substitute their decision as to what's good policy for yours, because they can't read your mind. That's the difficulty.

Mayor Jones: Would we do better to have this come back to us with policies representing other municipalities that have dealt with this and can that information be gathered by April?

Seth Thompson: Certainly, it's easy enough to pull, in fact I looked at a few in putting together the draft. The difficulty I think, is Planning and Zoning they're left to interpret what the comments were tonight, which it sounds like it might be to remove at least the properties that are eligible for inclusion; but maybe it's the Council's desire to leave the ones that are currently included in the ordinance.

Mayor Jones: I don't believe in the discussion that Planning and Zoning indicated they understood the word "eligible" meant that you have possible spot violations, therefore spot enforcement issues. You don't want to create that with a brand new ordinance to cover something. That would be my greatest concern. Dealing with municipalities and getting information from municipalities that already have recognized Historic Districts and how they differentiate one to the other, if they do at all. That information perhaps will be a greater guidance then putting the burden back on Planning and Zoning, but if this committee wants to focus it back on Planning and Zoning, then I would ask explicitly that Mr. Davis provide that information to that Commission, so that they have at least a comparison there.

Vice Mayor Booros: If Planning and Zoning was not comfortable with acting on some of these things, they could have returned it to us without a recommendation; but since they did return it to us with a recommendation, we either have to act on it or send it back. Acting on it would require a super-majority; so send it back, if they're not comfortable they can return it again without a Advisory Report or a recommendation attached to it; tell us what they want us to do; if they don't feel they want to do it.

Mayor Jones: And I do agree with you, the piece I just put on that was that let's please supply Planning and Zoning with all the information that would be helpful to them to make a determination further. There's no sense in them meeting on the issue if the information is not available to them at the time of the meeting. So I would support your motion, I'm trying to say.

Vice Mayor Booros: Well, there's a motion and a second.

Mayor Jones: Is there any other discussion? All those in favor say aye. Opposed. Motion carried.

- c. An ordinance to amend Chapter 220 of the Town Code, Entitled "Zoning" related to Parking (second reading)

Seth Thompson: Before I forget, I wanted to address Mr. Kost's comment. Again, the table hasn't been altered in any way, so I don't know why the requirement when the ordinance was adopted included 2.5 spaces for townhouses, other than it does say multi-family dwelling units in the same category. This ordinance isn't changing anything about that, that's the way the current code reads. Turning to the issues of this ordinance, Planning and Zoning considered the jurisdiction between Planning and Zoning vs. the Board of Adjustment; removing a 50% "cap" on parking requirement waivers; clarifying that there's no law in parking in front of any structure, not just residences; removing an extraneous reference to automobile parking when the code just references parking; coordinating references in the Town Code to the lack of a parking requirement in the Town Center District; and then expressly providing acceptable materials for parking areas. So the reasoning was the concept of a parking requirement waiver, a variance really fits better, in the more traditional role of the Board of Adjustment. The ordinance promotes consistency in the process for obtaining a waiver or variance for parking, so in other words, if somebody says I need a variance or I need some sort of waiver, they would normally think about the Board of Adjustment, as opposed to digging through our Zoning Code and looking for our reference to a parking waiver being in the Planning and Zoning process. Then there was a technical corrections in terms of the automobile parking and the residence vs. parking on the lawn in front of a structure. The final thing was expressly providing that parking area and materials, which ones are automatically approved; that way builders and anybody that's working on a project, can know right away what material they should propose to use. So turning to the ordinance itself, going to Page 2, you can see where Planning and Zoning has been struck and in favor of Board of Adjustment has been substituted and then I'm looking about half-way down Page 2, there's the removal of the language referring to without requiring a variance and the up to 50% and that language seems to be (I have to kind of read the tea leaves on it), but I think the notion was that as Planning and Zoning was going through the site plan process, if they wanted to waive parking up to 50% in the context of the site plan, then they could do it. Here, the ordinance would remove that process and basically if somebody wanted some sort of waiver, some sort of variance of the parking

requirement, they'd go to the Board of Adjustment first, get their variance, and then they'd submit their site plan to the Planning and Zoning Commission, along with the variances, assuming that it was granted the fewer number of parking spaces. Any questions, so far? On Page 2, again, the phrase "any structure" has been substituted for "a residence". Again, the argument there would have been well I can park on my lawn, in front of my office building, because it's not a residence. Turning to Page 4, at the very top, we just refer to off-street parking spaces, we don't refer to off-street automobile parking spaces or off-street truck parking spaces, so that word was struck. The location, again it was removed, the language upon the approval of Planning and Zoning has been taken out. The reference to the Town Center, for commercial districts, has been taken out, because there isn't a parking requirement and you can see in D.3, that just mirrors what's in your Town Center requirements. Off-street Parking, again, this is just saying the Board of Adjustment would apply the normal process to anybody that needed a waiver or a variance from their parking requirements; they'd now go to the Board of Adjustment. Then in F, rather than off-street parking areas shall be paved, it now says constructed with concrete and then it itemizes the types of concrete and then the various other items. It still does leave open the possibility for some other all-weather, dust-free permanent, stable surface to be approved by Planning and Zoning in the site plan process. That's it for that ordinance.

Vice Mayor Booros: Okay, Seth, as far as the construction of parking areas, I assume we're not changing a lot of this.

Seth Thompson: No, this came from the Town's prior engineer, that these were the surfaces that they had considered to be...

Vice Mayor Booros: Right, it said paved; we've knocked out the word "paved", and put constructed with concrete, regular... so we're not going to make the people that have pea gravel in their driveways that's rolling out into the street, comply within 18 months?

Seth Thompson: No, this is only for if somebody is building something going forward. If that's a pre-existing...

Vice Mayor Booros: Okay. Well this has been here though, hasn't it? Hasn't this been in...

Seth Thompson: Right, the language was that it was supposed to be a suitable, all-weather, dust-free surface.

Vice Mayor Booros: So it's been in effect for awhile, this ordinance?

Seth Thompson: That's right. The non-underlined language has been there. Again, it just didn't list the particular acceptable forms of all-weather.

Vice Mayor Booros: I understand, but I don't think pea gravel's an acceptable form of a stable thing that doesn't go into the street when you drive in and out, because it does.

Seth Thompson: I would tend to agree. It tends to spill into the street, that's the problem with it.

Vice Mayor Booros: And this isn't some new wording. That's wording that's been in the ordinance for awhile.

Seth Thompson: It has. The word "stable" is new, but all-weather, suitable and dust-free were in there previously.

Mayor Jones: I just want to be sure that if there's been no request for a variance, on a site plan, let's take that as a model, then Planning and Zoning will still look at that site plan with the parking requirements according to our rules right now.

Seth Thompson: According to our Code. That's right, which reinforces the notion of

Planning and Zoning being more of an administrative body where they're reviewing the matter for Code compliance. The Board of Adjustment being more of a quasi-judicial body where somebody makes an application and then presents evidence as to why they think the basis for a variance, or for an exception, would apply to them and that particular property.

Mayor Jones: Two things. Is it time to take a look at these number of spaces required, as Mr. Kost brought up, 2.5 is that something, if we're making some corrections to that, I just want to give it out there as consideration. The other is that what isn't said here, but I think needs to be pointed out, is that the change from Planning and Zoning hearing this, the applicant being denied has the ability to come back to the Council with an appeal. The Board of Adjustment is a different Commission and when the Board of Adjustment gives their opinion and makes their ruling, you may not come back to the Council and appeal that. So it's just a tougher, more legal process. I just wanted to point that out. That's what the change in these Commission's hearing this, would bring. What's your thought on changing those parking spaces?

Councilman Collier: I'd like to offer this for the 2.5 required spaces per unit in townhouses and multi-family dwellings, the purpose behind that is that normally these places, we assume that everybody is a two-car family nowadays. When you have townhouses you don't have spaces for driveways necessarily; not all of them have rear loading, so this allows for additional parking for visitors and guests; it's a common design feature. I understood why it was there and that's honestly why it states that, Mr. Kost.

Seth Thompson: The other important item is that that also includes multi-family dwelling units, so you could have an apartment scenario, so the frontage is going to be very small.

Councilman Collier: Right and that's why they require 2.5, essentially every two units you create a guest parking space.

Ed Kost: I'm just curious. When you look at single family homes being built, they have a two-car garage and if they're built on a street with no sidewalks, they get two parking spaces, that's it. I don't understand the difference, why a townhouse and it doesn't affect me, I'm grandfathered, so I really don't care; I'm just curious as to the reasoning behind all this. It strikes me as somewhat strange.

Mayor Jones: Do you have an answer for Mr. Kost?

Councilman Collier: Well, you have a two-car garage, it requires two off-street parking spaces; that's all that's required for the resident's. I guess you'd have to look at it in the context of design. Most townhouses have a parking area across the front of them. The best example I can give you in the Town of Milton would be townhouses in Shipbuilder's Village. There's no street to park on, so to speak and this is only for off-street parking. I live in a home that I have a one-car garage, I have a driveway that you can park two more on and if my street were wide enough I could park two in front of it. I'm only required to have space for two cars, off-street and that's it. It has to do with the way that the parking is configured for each unit, is all.

Ed Kost: I would think you might want to give thought to the Large Parcel Development then, because where I live, in the house I have to live in, I'm _____ to...

Councilman Collier: And that's the nature of the beast of Large Parcel Development and that's another issue to itself.

Vice Mayor Booros: So are the number of parking spaces, because that's not on the

agenda tonight.

Mayor Jones: Any other discussion about the changes that are recommended here?

Councilman Collier: Motion to accept the Advisory Report from Planning and Zoning regarding this particular ordinance.

Seth Thompson: Just to be clear, is that a motion to adopt the ordinance?

Councilman Collier: That's what they recommend, approval.

Mayor Jones: Related to parking, right?

Seth Thompson: Yes.

Vice Mayor Booros: Second.

Mayor Jones: Is there any further discussion? Hearing none, all in favor say aye.

Opposed. Motion carried.

- d. An ordinance to amend Chapter 220 of the Town Code, Entitled "Zoning" related to Special Uses (second reading)

Seth Thompson: In terms of the issues, this really follows well with what we were discussing, in terms of a change of jurisdiction from Planning and Zoning over to the Board of Adjustment, when it comes to those special use permits and then the only other change is including the word "substantially" and we'll get to that. It's probably helpful to see that in the context here. The reasons for the recommendation basically a special permitted use that jurisdiction is more in the traditional role of a Board of Adjustment as opposed to Planning and Zoning and that role is really referenced in the State Code, as well and then the term "substantially", the Planning and Zoning Commission felt should be included to avoid technical objections and better track with the State Code. The State Code, by way of example, has such as avoiding substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning ordinance, code, regulation or map.

Vice Mayor Booros: I'd like to ask a question. Did Council send this to Planning and Zoning, or did they bring this forward by themselves?

Seth Thompson: It was at their initiative.

Vice Mayor Booros: And this is a direct result of this Council moving restaurants from a Conditional Use to an Approved Use in the downtown district, that they didn't like and now taking it out of their hands, doesn't give us the authority to come back to us for an appeal, if somebody applies for a Conditional Use and it doesn't get approved; it makes them go through the Court system, if they don't get approved by the Board of Adjustment. It completely takes away anything from this Council. That's exactly what this is a direct result of, was us making a restaurant an approved use in the downtown district.

Seth Thompson: I don't recall specifically if...

Vice Mayor Booros: I'm going to tell you, that's exactly what it is. This is in black & white. It's not hidden. It would take any say away from this Council if you take it to Board of Adjustment.

Seth Thompson: Just one point of clarification. The Conditional Uses always come to Council, under your Code; it's the special permitted uses that this one deals with.

Vice Mayor Booros: Which is what?

Seth Thompson: A special permitted use? The way your Code is set up, you have your automatically Permitted Uses, your specially Permitted Uses that just by their nature, they need some conditions that might attach to them, so that they blend in a little more

appropriately and then you have your Conditional Uses and the way your Code sets up a Conditional Use, somebody can come in and really apply for a Conditional Use of any type of use, in any type of district; but that always comes to Council. This is just dealing with those Special Permitted Uses...

Vice Mayor Booros: I know what it's dealing with. I know exactly what it's dealing with and I know why it's dealing with and I know where it came from and I said it back then and I'll say it now. I won't be held hostage by Planning and Zoning. To me that's exactly what this ordinance is doing. It will completely take any say away from this Council and give it to the Board of Adjustment and then they'll have to go... that's real business-friendly too. Let me clue you. It's real business-friendly when you make them go to court, when they get turned down by the Board of Adjustment. Is that mean, making that happen? Just my thought.

Mayor Jones: Councilman Collier is looking up Special Permitted Uses right now to give you an idea.

Councilman Collier: Essentially Special Permitted Uses are defined within each zoning district and they vary slightly from one to another. As soon as I could find it, I'll be glad to give you an example.

Seth Thompson: I go lucky, I think. In your commercial district you have certain Permitted Uses, meaning if somebody owns a piece of property or rents a piece of property in the commercial district, they can open up an amusement center, a bank, a car wash, a church, a college, a day care, a single family dwelling; those are all automatically Permitted Uses, then when you get to your Special Permitted Uses, those include bars and nightclubs, bed and breakfasts, cemeteries, contractor yards, dwelling units above first floor businesses, home occupations, garages, gasoline filling stations, public parking lots, parking structures, golf courses, mining and quarrying, anything that might have more of an affect on the neighbor, basically.

Vice Mayor Booros: And restaurant was on that list until a few months ago, when this Council pulled it off the list and made it an approved use in the downtown district; since there were already four others.

Seth Thompson: If it's more helpful for people to think in terms of a residential zone, agricultural uses, single family dwellings, government uses and public parks, are automatically Permitted Uses. A Special Permitted Use would be an adult day care, bed and breakfast, cemetery, church, funeral home, home occupation, library, museum, non-profit membership, club, golf course.

Vice Mayor Booros: Well we already have an issue on home occupation and I don't want that issue taken away from this Council.

Seth Thompson: That ordinance is on for it's first reading, the one later on, but currently it's a Special Permitted Use.

Vice Mayor Booros: I understand that.

Mayor Jones: And yet it's defined differently in a zoning ordinance that's going to define home occupation.

Vice Mayor Booros: Absolutely. Quite honestly you have overlay districts that I think we might have an issue with right now, that are allowing certain businesses in the downtown district, within the Historic District that's overlaid over the Historic District, which is treating the other people differently. I think this Town has a problem with that already, treating one class of persons in the Historic District differently than another, because you have a downtown overlay plopped on top of it. We need to get our act

together, before we go sending this down the creek to the Board of Adjustment and giving up total control.

Councilwoman Patterson: No, I agree with you.

Vice Mayor Booros: I make a motion that we deny this right now.

Councilman West: I'll second that.

Vice Mayor Booros: And also under discussion, it takes a super-majority to overrule this.

Seth Thompson: Well it originated from Planning and Zoning, so I think the super-majority, the way that rules...

Mayor Jones: Does not apply.

Seth Thompson: Right.

Vice Mayor Booros: I don't want to risk it. We need to get ourselves together first, to find out if we're in compliance with our overlay district, for our Town Center over top of the Historic District, are we treating some people in the Historic District differently than others; that's become an issue over the last few weeks.

Councilwoman Patterson: I agree we do.

Vice Mayor Booros: I think it's been going on awhile. I don't know if we're grandfathered in, but it is now illegal to have those overlay districts, because you're treating one class of people differently in the Historic District, than you are treating other people and it may be something that is so new, that we're grandfathered in because we had it before it went into effect, but it's an issue and I don't want to give this away, until that issue is settled.

Mayor Jones: I actually have another issue in reference to our Board of Adjustment. Right now our Board of Adjustment, unlike the Historic Preservation, does not require that those persons serving on that Board have a knowledge of... and I think a number of the issues under B, Authorization to Grant or Deny Special Uses; you're asking a Board that doesn't have that qualification built into it right now, because it has not been a requirement to hear things such as screening and landscaping; hours of operation; increasing street width; a number of vehicle access points. I have to say that I don't think that we have the proper complement, no matter who they would be, at this time, to hear these kinds of agenda items and like the last issue, moving this to the Board of Adjustment will quash, if denied, the applicant from going forward with what they want to do and they don't have recourse except to take it to Court. This one is a little severe.

Vice Mayor Booros: That's not business-friendly.

Ed Harris: What you just said _____, that's the reason why we're getting no business here. That's your problem. Herein lies your problem.

Mayor Jones: So I am correct that we have a motion and a second to deny this recommendation, the Advisory Recommendation from Planning and Zoning and thus will not be signing an ordinance to change from Planning and Zoning hearing Special Permitted Uses to the Board of Adjustment. Is there any other discussion on this matter? All those in favor say aye. Opposed. Motion carried.

- e. An ordinance to amend Chapter 220 of the Town Code, entitles "Zoning" relating to Home Occupations (Resolution to schedule public hearing)

Mayor Jones: I have a question on this matter, Mr. Thompson. Is Mr. Davis here? I think Mr. Davis drove this project and Mr. Davis should be here to comment on this project. I will tell you, since it calls for my signature at the end, I'm not prepared, unless each and

every member here has a convincing argument and is prepared to act on this Advisory Report tonight.

Seth Thompson: Madame Mayor, this one needs to be scheduled for a public hearing; so that's where we are in the procedure.

Vice Mayor Booros: I think that's going too far. I think this should be tabled.

Mayor Jones: There's a lot of, a lot of information here. It was a great deal to digest, even with the extra time that we were given. I had a number of comments, but above all, I do believe Mr. Davis should be here to participate in this particular discussion. Would we be violating anything as far as our advisory opinion; they did get it back to us in the 45 days. Are we bound to have to act on this tonight?

Seth Thompson: No, you're not. Again, I think it was just noticed for the Resolution to schedule the public hearing, so it was intended to be a first reading of the ordinance and then, if Council doesn't want to go forward with it, then you just don't...

Vice Mayor Booros: I make a motion that we table the first reading of this ordinance for 6 or 8 weeks to have an opportunity to meet with Mr. Davis and discuss some of the things in this ordinance.

Councilman West: I'll second that.

Mayor Jones: Is there any other discussion? All in favor say aye. Opposed. Motion carried.

f. Orchard Street Update

Mayor Jones: This evening we're taking up an old topic, Orchard Street. At the end of the previous administration, Orchard Street arrived in the form of possibly some land cited for Habitat for Humanity. That did not work out, the topic has not been resolved and Councilman Collier has been doing some work over the fall to do some Orchard Street research and also our Public Works Supervisor, Mr. Wingo, has entered an opinion that we'll share after Councilman Collier tells us what's going on over on Orchard Street. For those who do not understand, Orchard Street Extended is a small parcel of land. It travels from Mulberry Street to a fence that was an intended pass through as a Mulberry Street exit of Shipbuilder's Village. That did not materialize and so what we do have is a parcel with two homes on it.

Councilman Collier: We had the opportunity to meet with one of the two property owners; one property owner expressed no interest in it whatsoever. The property owner with the greatest interest has a home that they were advised by the Town to place it, as if there would be a street there. They built a garage at the home there. They have an interest in the property, but they have no interest in the property at market value, which is what we had been advised by Council, that we should at least seek. I had entertained several ideas, one of which would be, if nothing else because the Town has gone on record twice with this particular parcel as it being the access to these people's home and garage; that if they are not interested in buying at market price, some of the options that have entered my mind, and I discussed briefly with Mr. Thompson, but it's not gone any further, were a potential to grant to see if these people would be interested in what's known as a life-time easement, so as long as they own the property and they're alive and owning the property, they have the easement to cross this property. In exchange for the easement, they assume all the grass cutting, all of that, if they choose to pave a driveway on it, that's fine; when you give up the property, the driveway becomes property of the Town again. That's just one option that I have. Now we have other options on the table.

Public Works has come forward with another thought and I'm going to leave it at the discretion of the Council, as to which way they want to move at this time, because the issue of an easement has not been presented to the property owner, with interest, at this time, so I don't know that they'd even be acceptable to it.

Vice Mayor Booros: If they sell the property, the easement doesn't convey with the property, so it's going to make the property harder to get rid of if the people realize that the lot in front of them is a street that was never paved.

Councilman Collier: That's one of the pitfalls.

Vice Mayor Booros: I've read what you've written here about fixing it...

Mayor Jones: No, this is Mr. Wingo's.

Councilman Collier: This is Mr. Wingo's.

Vice Mayor Booros: Oh Mr. Wingo. I've read what you said about paving it and fixing it. Nice idea, if it didn't cost money. Before I'd pay to pave it and fix it, I'd offer to give it to them. It's a piece of nothing. It's been their driveway for 20 years and it's just dirt. Give it to them.

Mayor Jones: It's a Town asset. It's worth something.

Vice Mayor Booros: Yeah, it's somebody's street, then pave it.

Mayor Jones: Well and that's exactly what the recommendation is that's coming from Public Works. To give the easement and perpetuate just the driving over of the property, the property isn't in terribly good shape and it's full of ruts and the common cold weather, fill in ice water; there's the cutting of the property in the summer. I might have been on board except in understanding that it is an asset, makes it Town property and I don't know that we as just a Council of seven, has the right to give that value away.

Vice Mayor Booros: You may be right, but your calling it an asset and I think for that little piece of property, what it's been worth over the years, the money we've put into maintaining it, it's now become a liability. It's not an asset to this Town. It's the lady's driveway.

Councilman Coté: It may be an asset in name. If you can't get anything for it, it has little to no value. I not sure what market value is of that piece, but is there any interest, at any value? If market value is \$20,000 or \$10,000, is anybody interested at \$5,000, or \$4,000. If we could do something, that would be better than nothing, but if nobody. The only people who would probably have any interest, are the two homeowner's.

Vice Mayor Booros: Right, but if somebody else comes in and wants to put a house, in front of their house, you've just taken the street in front of their house and put a home on it and that was suggested during the last administration; that we give it to Habitat for Humanity and shove a house in sideways in these people's front yard. This was the street in front of their house that this Town never paved over the past 20 years. All we do is cut the grass and fill the rocks.

Mayor Jones: So Mr. Wingo, you have a proposal here, even though I know that you've put some feeler's out for quotes. Let me say that my only concern on your proposal is the installation of sidewalks and curbing. Right now, when that Mulberry Street piece was done, DelDOT only allowed a driveway cut. There was never a real street cut there, so you do not have ADA compliant coming into that. Do you advocate sidewalks down that side of Orchard.

Greg Wingo: From what I'm aware of, if we do put a street in there, that we have to have sidewalks on both sides. That's my understanding. But I would like to add real quick, this is a problem that's going back since 1970. I've done quite a bit of research on this.

Probably three years ago, it was offered to both of the property owners and I believe both of them had said that they wouldn't pay anything for that property, because they don't want to pay the extra land tax and therefore, that it was the Town's responsibility, turned over by Mr. Capano when he was taking care of Shipbuilder's Village on the north side. In the beginning there was supposed to be a loop in there that would start there at Orchard and it would go into the development and loop around and it would come out there at Tobin. That was the beginning drawing, just to give some of you a background real quick and then it went to another drawing that it would start there at Orchard and then it would go into Duory Circle and then off of Duory Circle, it would go towards the side of where Ace Hardware is, there would be a street in there also. Then a third drawing, which is the last and most recent drawing that I found, it just went from Orchard to Duory and then along the line somewhere and I haven't found much of this, it was the parcel there that went with that, was sold and a house was built on it. Then I believe about 10 years ago and some of you might be able to remember this, that there was a foundation on this actual parcel. Something happened with the permits and Public Works ended up going down there and demolishing the foundation that was put there. So just to go back, as I said, this is going back since the 1970's, so it's going back a long time. What was told to both of the property owners, side by side, I don't know. I haven't seen anything in writing, but therefore this property was turned over to the Town, for a road. The road was supposed to have been done by Mr. Capano and it was never done. This goes back to the... There are a lot of things over the years that haven't been done and I think before we constantly add more problems then we need to go ahead and start taking care of the problems that we do have, to be able to move forward. As I said, there were two ideas that I was thinking about and was going to suggest and as I said, I think one was to just basically give the property up to one or even split it, to the homeowner's live next to it. From what I've seen, they don't want it. So I think the next step is to make this right by putting a road in there and I'm waiting for a quote to pave the road. It's 50X140' area there, so it's going to be a pretty big road. It's going to end up being about 30' wide on the asphalt, if you take that you're going to have 5' sidewalks; but there again, what I've read is that we have to have sidewalks. The could still be an option with the sidewalks...

Vice Mayor Booros: Do they not want the property, or do they not want to pay the additional taxes?

Greg Wingo: I don't think it's about not wanting the property. I think the biggest thing is that they don't want that future expense.

Vice Mayor Booros: I don't think that the size of a lot is going to change that much on that side of town of what the other parcels are already assessed at and the assessment of that property, I doubt seriously is going to go up... Councilman Collier?

Councilman Collier: Based on the way that the properties are currently assessed in town, the land value will not go up.

Vice Mayor Booros: It's not going to change.

Councilman Collier: Essentially, even if you increase the size of the lot underneath them, it doesn't change the bracket that it falls within in that part of town, because the values are bracketed at some point.

Vice Mayor Booros: And it's not that much property.

Mayor Jones: Well even selling it for say \$40,000; or putting it on the market for \$40,000; it's a non-conforming lot...

Vice Mayor Booros: You'll end up in Court.

Mayor Jones: But it doesn't fix the pattern that Milton has informed the family on the south side of this parcel, that they needed to turn their home to face this street, that's first... I don't know if I have a second, but that was part of the issue, that their footprint they wanted to face Mulberry and they were told this was a street and they needed to turn that house. So selling it and having it come before the proper board for a non-conforming building isn't going to fix that property owner's problem.

Seth Thompson: I think last time this issue was discussed, I mentioned that it could be auctioned and it could be auctioned with an access easement. In other words, the Town is selling it's property, but whoever buys it is going to need to buy it encumbered by that easement for that property owner to the south. I think in reality the potential two bidders on that property would be the neighboring property owners; but at least at that point there was some process that was followed; that it wasn't just given to somebody.

Vice Mayor Booros: I think this Town needs to do the right thing. It's either to spend a heck of a lot of money to pave it, or just give it to them for \$1. Sell it to them for \$1 and let them take the maintenance. We are spending money to maintain that property.

Councilwoman Patterson: I agree.

Greg Wingo: If I could say something real quick. Just keep in mind that Town doesn't have any money at all in this property. This property was donated to the Town.

Councilwoman Patterson: We're paying money to maintain it and if we put the road in there, that's another additional cost and then you're going to have to take care of it with snow removal and weeding and things like that, so it becomes a liability. I know it's Town property, but the family that's lived there was burdened with the house being turned and the road never being put in.

Councilman West: I spoke with Mrs. Bull on this, two weeks ago and she is all in favor of the town doing something that she could end up with the property. She would pay the transfer tax, pay all the costs to transfer this property to her and she didn't have any problem with the taxes.

Seth Thompson: There shouldn't be any transfer taxes, because it's...

Councilman West: Well whatever, but what I'm saying... and to change the Recorded Deed and anything associated with it, she had no problem paying for that.

Councilman Collier: And this was discussed in a meeting with them and they made that indication, as well, that they would consider a conveyance, convey it for \$10 and they'd assume the cost of the survey, the recording of the deed and any transfer taxes that might be required, because when you do a conveyance, even if you convey it for \$1, you're still paying a transfer tax on the back.

Seth Thompson: Right, except for any transfer involving a municipality can be exempt, but you're right. It doesn't matter what it says on the deed, it's the value of the property.

Councilman Collier: It's the value of the land, but this is one of the things that they expressed an interest in, but again, based on advice from Counsel, I didn't present that this evening, but that has been discussed with them before.

Councilman West: I'd like to make a motion that we sell it to them for \$10 and they pay all associated costs, assuming the rights to that piece of land.

Councilwoman Patterson: Second.

Mayor Jones: Discussion?

Councilman Coté: Rather than us sitting here defining the terms, and if they wanted to do something just ever so slightly different, it has to come back; why wouldn't we

authorize Councilman Collier and Councilman West to talk to the people and come back with their proposal that we could accept or turn down?

Vice Mayor Booros: Because we're this close to getting rid of it.

Mayor Jones: I can't support selling a town asset for \$10. I can't do that.

Vice Mayor Booros: You don't see it as a liability and if we pave it, it becomes a long term liability.

Mayor Jones: I've already been over what it would be to pave it and take care of it and it's far more extensive than just leaving it alone, but the point in bringing the topic today was to just definitively come up with a decision. This asset, whatever this land is worth, actually belongs to everybody.

Councilman West: With all due respect Mayor, all this property has done is cost the Town money, even though it was given to us. It is not an asset, it's a liability and we've got somebody willing to take a white elephant off our hands and then we're going to benefit in the long run by the property taxes, that we're going to get back.

Vice Mayor Booros: And not have to pay...

Councilman West: And not have to do anything to it.

Mayor Jones: Then let me argue this point; what's the difference in giving the adjacent homeowner this land and having contributed it to Habitat for Humanity a year ago?

Vice Mayor Booros: Because it's the front of their house.

Councilwoman Patterson: And it's a non-conforming lot. It's the front of their house.

Vice Mayor Booros: It's the front of their house, it should have been paved in 1970.

Councilwoman Patterson: And they were burdened with this for 20 years, that their house got turned differently and the road never went through.

Vice Mayor Booros: You try giving that lot away in front of their house and you block the access to their driveway and their garage, you're going to pay dearly in court costs when they fight you in court.

Mayor Jones: Wait a minute. Giveaway doesn't mean give it away without an easement that went with it, so that's not what I meant. But I think this piece of property has value and I'd have to go with Councilman Coté to at least try to find some information about the adjacent property owners and what they may be willing to offer the town for this.

Vice Mayor Booros: And I think you're kicking the can down the road one more time, because I think it's been said, they don't want to offer the town anything for the land. So keep kicking it down the road and we'll be here six months from now, doing the same thing.

Councilman Coté: I'm not saying that \$10 might be the only thing you're going to get, but I think you need to go talk to them. If you can't get anything for it, it has no value. These old shoes that I have on are very comfortable, but I couldn't get anything for them from anybody. They're not worth anything, other than a little comfort. If you can't sell it and you can hardly give it away, the asset really doesn't have a value. We should make some... We should talk to them and see what they'd be willing to do, but I don't think we need to... I wouldn't say we should come up with the terms now and then if it's different, we have to hash through this again.

Vice Mayor Booros: What's the difference? If you go back to them now and come back, we're going to hash it later. What if they say yes, tomorrow, to \$10, we cover all the fees and we don't have to hash it over again? You go back to them to see what they want and we come back, we're hashing it over again next month or the following month.

Mayor Jones: Will Milton be looking at any legal fees for this parcel changing hands?

Seth Thompson: Sorry, I thought I understood that they would pay the costs.

Councilman West: The way she talked, they would be willing to pay all fees associated with it.

Vice Mayor Booros: So if she doesn't agree to this, it does come back to us. If she does agree, we never have to hear about it again.

Mayor Jones: You had one of the last conversations, obviously Councilman West had something in the last couple of weeks.

Councilman Collier: And the conversation that I had with them, was very similar in context to what Councilman West had. I have to state again, that the town on two different occasions has more or less indicated to them that that would be a street and to not... and I don't see it in our stars, to turn it into a street. It would be a street to nowhere and it would be far more expense to turn it into a street and we've got other places that need asphalt a lot worse than paving that lot for one home.

Mayor Jones: Let me ask this one last question in discussion. Mr. Thompson, do we need any kind of letter of intent from the Bull's that they would accept the value and the payment and the survey, whatever it takes; although we just had that property surveyed, because we took it on, as I recall. We just had that done and now we pay taxes on it.

Seth Thompson: I drafted a Quit Claim Deed for the Capano entity that owned it, to transfer it to the Town, but I just used the meets and bounds; I might have incorporated by reference to the sub-division plan.

Vice Mayor Booros: So we just owned it recently?

Seth Thompson: It had been dealt with back in 2003, but I think the town never presented to Mr. Capano the deed to actually sign it, but there was an exchange, 10-11 years ago where that was the determination that it was indeed the town's property; it's just there wasn't a deed that had been signed and recorded; which then of course, without that Deed the Recorder of Deeds and the tax rolls didn't reflect that it belonged to the town, but once that deed was recorded, then the tax rolls reflected it.

Mayor Jones: So this would just be with the issue that the property sold as is. Again, my question is, do we need anything from this property owner with their intentions to cover all costs?

Seth Thompson: I think it's always easier for the town to receive, for the Council to receive an offer of terms, because if they have one additional item that they say they want to close on X dates, or they want to do a curb by X date, it's going to have to come back in front of the Council anyway; but I under the Vice Mayor's point, putting the offer out there; if they respond and accept it...

Vice Mayor Booros: Done.

Seth Thompson: That's right. I just want to make clear, the people on the north side, did they use it as an ingress and an egress?

Councilman Collier: No and I made multiple attempts to contact them and they showed absolutely no interest.

Seth Thompson: The would be my concern; that would be the only other person aware that it probably has some value, obviously.

Councilman Collier: Their home was turned parallel to the street that it fronts on and I think their driveway is on the opposite side of the home, so they don't use it for ingress or egress, either one.

Seth Thompson: So as far as the offer, would it just be a copy of the minutes; that basically somebody from the town is going to say, this is what was approved. Do you

accept these terms and they could say yes or no. Okay.

Councilman Collier: That's essentially how I got it.

Mayor Jones: So we have a motion and a second to convey this property through sale to the Bull's for a fee of \$10 to the town, as well as they cover all costs, all legal fees, anything else you want to fit in there?

Seth Thompson: I would just say any costs that are related to the transaction.

Mayor Jones: All costs.

Seth Thompson: Because it will be the Recorder of Deeds fee. That's right.

Mayor Jones: Is there any further discussion? Do we need a roll call vote?

Seth Thompson: I think that would be helpful.

Mayor Jones: Alright.

Vice Mayor Booros	Yes
Councilman West	Yes
Councilwoman Patterson	Yes
Councilman Coté	Yes
Councilman Collier	Yes
Mayor Jones	Yes

Mayor Jones: Motion is passed. Since Councilman Collier started off with my assignment for him to speak to the Bull's when the paperwork is available and the terms, whatever, I think it would be a good idea if Councilman Collier continued with that project to get that to the Bull's.

Councilman West: And if you need my help, I'll help you.

Councilman Collier: No problem. We'll see them together.

g. Cannery Village punch list

Seth Thompson: The moment at least that Mr. Kost has been waiting for, I sent an email to the principles of Chestnut Properties. Mr. Thompson is of no relation, by the way, wrote back and I advised them that if they are not going to complete everything on the punch list, or at least that's not their intention, then they need to come forward to Council with some sort of application for whatever accommodations they feel would make it possible that they could complete the paving, that they are indeed, able to do. So it needs to be done through a formal process; they're aware of that at this point and Mr. Thompson was in Florida when I spoke with him, I think it was last week, but he was going to be back. I think the logistics of how exactly that needs to be done, is going to be based on how it was approved. For instance, the LPD was approved as an Ordinance and then we have the punch list, which is really part of the Town's acceptance process. So we'll have to craft... we need to see their application, but that's going to be something, when I see the application, I'm going to want to write it up so that the Town can review it as an Ordinance; just given the fact that that's not kind of a one line item motion. But we need to see an application from them in terms of what exactly they want not to do, or what they'd like delayed and how quickly they would do it, in terms of finishing certain items, since they said they're not in a position to do everything, but they would like to do most things and I think that's probably... I don't want to substitute my judgment for the Council, but I suspect that would be of interest to the people of Cannery Village and to the Council, as well, to hear what they're willing to do; what

accommodations they would like and what measures they're willing to put in place, as far as some assurances that they will do the things that they say they're going to do later.

Mayor Jones: But we have found ourselves in this same position of needing their application prior. Is there a sense, any sense, we're coming into warm weather and paving will be prime and we don't want to go through next winter with the punch list still hanging over us and no streets completed. No sense?

Seth Thompson: At one point, there was a sense of urgency leading into the concrete shutdown or asphalt shutdown. We are fortunately coming out of that, so I would hope that they want to get this done. It seemed to me that they indeed wanted to get it done. On their part, I think there wasn't really a response to the new punch list items, but the impression I was given was that they were okay with those items; although it would have been nice if they had expressly said yes, we've reviewed the old items, we've reviewed the new items and the only thing we're looking for is what we're looking to have altered on the old punch list. If I'm not mistaken, they've had A.P. Croll out doing some of the items.

Councilman Coté: They did do some, but they did them in one or two days back in the fall and they did correct some issues. I had an opportunity, as a member of the homeowner's board to sit down with them. They indicated they were getting it priced out and Croll should be finished about now and I would like to believe that this is true; that they would like to be finished before Memorial Day.

Seth Thompson: Which is good. That leaves us two regular meeting.

Councilman Coté: Yes. It did sound like they had some discussion items that they may want to... and they offered some... they didn't offer. They brought up possibilities of how they could resolve some of those guarantee issues, if they didn't do everything right away.

Seth Thompson: Having any sort of a guarantee at this point and any sort of paving, I'm sure people would love. That would be good.

Councilman Coté: I certainly would.

Seth Thompson: So that's the update. I could follow up with Mr. Thompson again. I think he was supposed to be back this week. I'll see if indeed they're going to have their application ready, so that it could be on the April regular meeting.

Mayor Jones: And if not, then when? Either you ask your question, or you don't get your answer. You've got to ask the question.

Seth Thompson: I think this is somewhat of an exercise in faith as Councilman Coté suggested, because there have been deadlines in the past and they haven't necessarily been met.

Mayor Jones: We've been very faithful, the community and group; we've been very faithful, so if not April for them to come in front of us, when? I would like to have the answer to that question.

Seth Thompson: I will ask that question directly and let councilmembers know the results.

15. New Business – Discussion and possible vote on the following items:

a. Economic Development Budget

Mayor Jones: You have in front of you the recommendation from the Economic Development Committee on the spending procedure. Their budget in 2013-14 was adopted as part of the entire budget, but not as their budget and so right now, the

Economic Development Committee comes in front of the Town Council with a recommendation on how to spend funds. What they want to do is for you to look at Page 5 over here and approve this spending, as written. Mr. Howard is here and maybe would take a place at the microphone. I have a couple of questions for you. I don't know if any other folks on Council do.

Bob Howard, 217 Chandler Street, for the Economic Development Committee: We were informed last fall that the way we committed the funds that were in our budget for fiscal year 2013 were not entirely in keeping with the wishes of the Council and that we should, before we committed any of the funds that were budgeted, come back to Council and get specific permission for each item. We thought that that would be because of the FOIA requirements; in some cases be really a hardship and might make it impossible to spend things in time. So we proposed the procedure whereby for things that you had already approved, we would fill out a form and have your designated representative approve that and the funds could then be spent without coming back to Council for specific approval and that's what this procedure and form and budget consist of. The budget that we gave you is essentially the budget that was put in with the budget requests at the beginning, when you were developing 2014 budget. You didn't budget us with everything that we had asked for, so this budget is modified to reflect the amount of money that have budgeted. You authorized for Economic Development Committee, the grant money from the signs, which I think was \$13,700 and then an additional \$5,000 to do the other things that we had requested. So we put them in a budget. The Committee approved that. What we're suggesting is if you approve this budget, then we would follow the procedure and only have to fill out the form to commit those funds. If we wanted to change something on there, say ask that we spend the money for something different, than what we requested. We would fill out the form and bring it to the full Council to get permission to do that. If we ask to spend money that wasn't budgeted, again we would come back to the full Council to ask permission, so it would only be for things that you had previously agreed to, that we would use the form and your designated representative would agree with us and let us commit those monies.

Mayor Jones: We have spent our Sussex County Profile ad money this year. Is that correct?

Bob Howard: Correct. That's correct.

Mayor Jones: And, again, the media advertising under Horseshoe Crab Festival and Bargains on the Broadkill is a contribution to expand their advertising, correct?

Bob Howard: That's correct. This was to buy advertising in addition to what they had planned on spending and had budgeted and what we did last year, there was some confusion, but that money was spent by the Town with Public Radio and with the News Journal for ads that were in addition to what the Horseshoe Crab committee spent.

Mayor Jones: And although the Horseshoe Crab Festival committee and Bargains on the Broadkill, it is assisting them in advertising, is Milton getting any bang for it's buck? Milton? The Town? Meaning you put \$1,000 ad or a couple of \$500 ads in the paper, where you advertise Visit Historic, Scenic Milton with what the activity is that's coming up, or a calendar of some sort. Is that the advertising you indicate, or just to further advertise, just the event.

Bob Howard: I think it's a combination. The thinking was that the more people that come to those events, the more people see Milton and see the attractiveness of Milton and perhaps would be enticed to come back or move here. We only have anecdotal

evidence, but the feedback we got from the Horseshoe Crab Festival committee was, that last year was the best attended Horseshoe Crab Festival yet. And our thinking on the Committee was that particularly the Horseshoe Crab Festival one, is unique, its an opportunity to put Milton on the map for a unique feature that does more than just dot the Town, but it's an environmental issue. There's a lot of other things that make it an attractive festival and it's good to have Milton's name associated with them.

Mayor Jones: Because you also have St. Patrick's Day, which is an extremely festival in the town, as well.

Bob Howard: And we did not do anything for the St. Patrick's Day festival this year.

Mayor Jones: Under the support for civic organizations, the 4th of July celebration, can you explain what that is, as well as Shakespeare in the Park and what civic organizations head those up?

Bob Howard: As far as I know right now, I don't know the specifics for a 4th of July celebration. I know there are plans being made. The Committee thinks that's a great idea for Milton and wants to be associated with that, but we have not made any connection with that committee yet, but we felt it was a worthwhile event to help sponsor. The Shakespeare in the Park was very successful last year and as far as we know, that's still planned to be held this year, even though the non-profit that ran the theater has closed, I believe. As far as we know, there's still a group of theater people who are planning to do a Shakespeare in the Park Festival and if they do, we'd like to support them. The other civic organizations we have not designated and I don't think we have anything particularly in mind...

Mayor Jones: For?

Bob Howard: I think on that budget list we said civic organizations, but we don't have them identified and I think that's because we haven't identified them yet.

Mayor Jones: I asked this question at your committee meeting, I think in February. You have money for a Downtown Merchant's brochure, but who are the Downtown Merchant's that drive that brochure now?

Bob Howard: I don't know the answer to that either. Kathryn Greig did that and I don't know whether they will reproduce that brochure this year, or not.

Mayor Jones: And my last question to you is...

Councilman West: Madame Mayor, may I elaborate on that? I got a call from Myra Oates the other day and she is in the process of putting a brochure together for the town of all the civic organizations.

Mayor Jones: He's working with me for that, Councilman West, but that has nothing to do with the Downtown Merchant's brochure.

Councilman West: I was thinking it had to do, because that's what Kathryn did last year and she was using ideas from Kathryn last year.

Mayor Jones: Myra Oates is working on a number civic organizations that take volunteers and would gladly accept volunteers. The last question I have is under Christmas events, you have \$800. Can you tell me what that represents?

Bob Howard: The Christmas event that we held last year was intended promote shopping in Milton during the Christmas season. We recruited the merchant's in town to distribute door prize tickets to their shopper's during the Christmas season, from Thanksgiving to Christmas. For some of the people we got a late start, but it was generally that and it was no until Christmas until the Holly Festival and the day of the Holly Festival, we had an event in the Irish Eyes vacant room, next door and we plan to

do it again next year, if we can, and put it in the same location, which by them will be the refinished conference room of Irish Eyes. We had music and refreshments there and we held the drawings in a two-hour event. We picked that day because it was the day of the Holly Festival and the Century Club's House Tour, that there would be a lot of people in town and so this would help attract people. I think we've had some discussion in our post-planning session to see how well the event went; about whether or not we should do it the same weekend next year and I don't think we've come to a conclusion; whether that's the best time or perhaps the next weekend when the music in the park event, which I assume is going to happen next year, as well. So we haven't decided on the weekend yet, but the plan would be if we do the same thing and the \$800 was spent; \$400 of it for door prizes, about \$100 for publicity, \$200 for the music and the other \$100 was spent buying supplies like the tickets and some of the refreshments were paid for.

Mayor Jones: Can you tell me, Mr. Howard, out of those door prizes, were those perhaps gift certificates back to Milton's own businesses?

Bob Howard: They were. I think the \$400 all went for gift certificates from Milton businesses. Some of the Milton businesses donated door prizes, in addition to that. Some of the non-profit's did also. The Century Club donated a gift. The Garden Club donated a gift. The major door prize was \$100 gift certificate to Irish Eyes. The second one was a \$50 gift certificate to Hillside Florist and there were two \$25 gift certificates to restaurants. One was to the Backyard and one was to the Bay Leaf and then there were several smaller door prizes.

Mayor Jones: Does anyone have any comments or questions on the budget? You're about to approve something that will just be spent without coming back. It will be handled through Mrs. Rogers in Town Hall with this request attached, for expenditures that are approved this evening, as stated. Anything with a variance will then need to come back with a special request.

Bob Howard: If I may add one more thing, Madame Mayor. None of the expenditures would be made without the Economic Development Committee, the full committee, approving the specific expenditure.

Councilman West: I have a question. If I did my math right, you've got \$18,889 and when you start with your expenditures and run them on down, I come up with \$22,818.90.

Bob Howard: Well I might have made a mistake on this sheet, but my math balanced the expenditures and the budget, so I may have a mistake.

Seth Thompson: I think it's the publicity promotion expense, that \$4,029 is a total of...

Bob Howard: I had some sub-totals on a different line.

Seth Thompson: I think that's what it is.

Councilman West: Okay. Then I accept that, but if you start with the \$4,029 and go right on down.

Councilman Coté: That's a sub-total of the four lines underneath it.

Councilman West: Okay.

Councilman Coté: I usually put the sub-totals underneath.

Councilman West: Okay and thank you for the clarification.

Mayor Jones: This will require a vote.

Councilman Coté: Motion to approve the Economic Development Committee budget for 2014.

Vice Mayor Booros: Second.

Mayor Jones: Questions?

Bob Howard: Can I ask one more question? I think we were asking for approval of the budget and the procedure too of how we authorize those.

Mayor Jones: Adopting the Expenditure Request Form?

Bob Howard: And the guidelines for it's use.

Councilman Coté: I amend the motion to add the procedures and the forms.

Vice Mayor Booros: Second.

Mayor Jones: It will up to Council's majority vote, but during the discussion, I will say to you again, the money spent on festival advertising, I personally believe can still represent festival advertising, while bringing Milton and the Town Of, to the forefront of that advertising and it will not sway my vote here. It is just how I see Economic Development for Milton, representing Milton; not just the event; including the event, absolutely, but putting Milton to the forefront.

Bob Howard: I agree with you and if you like, we'll run the copy for those ads past you before we commit to them.

Mayor Jones: It is my preference that I say that to you, because I believe we can achieve both, but twisting it in a different direction, putting Milton to the forefront and certainly advertising the events. I think you can get a double bang for your buck.

Bob Howard: I agree.

Mayor Jones: Then I trust that you'll represent that idea, perhaps to your committee. Having no more discussion, all those in favor say aye. Opposed. Motion carried.

b. Appointment to Water Committee

Mayor Jones: We have an additional appointment to the Water Committee, Mr. Greg Wingo, our Public Works Supervisor will join that committee. It is my understanding and maybe it's for clarification, Mr. Thompson. When a specific member of staff goes to a committee, they're not a voting individual, is that correct? Can we just clarify that?

Seth Thompson: That's correct. They shouldn't be a voting member.

Mayor Jones: Okay, so I am looking for an approval for that appointment of Greg Wingo.

Councilman Collier: Motion to approve this appointment.

Councilman West: Second.

Mayor Jones: Any other discussion? All those in favor say aye. Opposed. Motion is carried.

c. Adopt Public Works Operator I job description

Mayor Jones: Mrs. Rogers and Mr. Wingo worked on this draft. This has come forward from the Personnel Committee with a good recommendation. We're finding, as we're replacing staff and making staff corrections, that we really needed to take a look at the job descriptions. I think this one prepared did a very good job in representing exactly what's expected of that position. So it has come here tonight to be reviewed and adopted, if that's what we choose.

Vice Mayor Booros: Well, I'd like to make a motion, as a member of the Personnel Committee, also, to take the Personnel Committee's recommendation to approve this job description, as written.

Councilwoman Patterson: Second.

Mayor Jones: Any other discussion?

Councilman Côté: Quick question? On the bottom of first page, Primary Responsibilities, number ten, we used to have a Town Manager. Now we have a Town Clerk, yet this refers to the Town Administrator. I'm at a loss as to who that might be.

Mayor Jones: I think there are almost three of us in the room that can answer that, but, I will allow Councilman Collier.

Councilman Collier: In the work on the Charter, we will be coming forward with a recommendation to reword that within the Charter as the Town Administrator so that there's no conflict that if we are in the capable hands of a Town Manager, then that will prove that we're in the capable hands of a Town Clerk.

Councilman Côté: So until we get to that, this person doesn't exist.

Councilman Collier: More or less. This is in anticipation...

Mayor Jones: Then we pass this...

Seth Thompson: No the Charter does indicate that an alternate title for the Town Manager, would be the Town Administrator and since this falls under personnel, the Council has assigned those duties to Mrs. Rogers. I think we're on pretty firm legal ground that the current Town Administrator for this purpose, would be Mrs. Rogers. It just takes a couple of steps to get there, that's all.

Mayor Jones: Any other discussion? All in favor say aye. Opposed. Motion carried.

- d. Wind and Solar Energy – An ordinance to amend Chapter 194 of the Town Code, Entitled “Taxation,” relating to property taxes (first reading)

Seth Thompson: This comes out of the property tax appeals, so just looking, this is Section 194-3. This deals with your town assessment. I changed the word “shall” to “may”, because it's referring to the Town's option to adopt either the county assessments, or perform it's own assessments and really your Charter says that the Town Assessor has that discretion, as well; so I don't know why when it was codified they used “shall” instead of “may”, but it really should be “may”, given the fact that it says “shall”, there's an argument that your Code says that you should be using the County's. So that really needs to be corrected, so that it clearly provides that the Town Assessor can use his own assessments. In terms of the next section this is really what prompted reviewing this Ordinance and bear in mind too, a lot of these numbers are really just placeholder's. I just wanted the Council to look and see what they might consider. So for instance, here, there's a number where 50% of the value of any wind or solar energy system; and I know Council at first just discussed solar energy Councilman Côté pointed out, what about wind energy, because that is an option; so again, just for Council's consideration I added in the phrase “wind energy” and then excluded up to 50% of it's value. It could be that it's excluded entirely. That's really up to Council, but it would be the value from the assessment that's attributed to that wind energy system or solar energy system or both, whatever Council decides. I then added in a definition for wind energy or solar energy and really the goal of that was number one, to define what those units are. In other words, I wouldn't want somebody coming in and saying well you should exclude the value of my roof, because my solar panels are attached to my roof; so it's the equipment that's used in that solar energy or wind energy process. Then I added in a sub-section that discusses the fact that this assessment abatement would run for twenty years and the process again would be... Again, this isn't taking the place of the appeal, but if somebody were to have solar panels or wind energy installed and for

some reason they were assessed with those items, then they would just need to notify the Town and they'd get a rebate. I put in 120 days. We'd have to look at the timing of that, how that lines up with your tax appeals and with the assessments being posted, but that's again more of a placeholder. If they don't notify the Town, then there would be a waiver of that tax exemption for that year. Obviously, the next tax year could come back and say, by the way I still have that solar system and you shouldn't be taxing that. So, this is more or less a framework for the Council to consider what you want to do, if anything, with regard to solar energy systems or wind energy systems or both, when it comes to tax assessment.

Vice Mayor Booros: Did we intentionally exclude geothermal wells? Because it's my understanding that we were not taxing; the assessor was not levying additional taxes on geothermal wells, but then in doing some research on somebody that put one in, that was the only thing that year and their taxes increased. I don't know if we ever got an answer as to whether or not it was because of the geothermal well, but I was told we were not taxing geothermal wells, but I know somebody whose taxes went up the year they put in one.

Seth Thompson: If it's the Council's desire to have geothermal wells, as part of this whole green initiative to be included in this, I always think we might as well spell it out. I think that's better than leaving the assessor to make up his own mind as to what should and shouldn't be included.

Vice Mayor Booros: Oh yeah, don't leave the assessor to do it.

Councilman West: I have a question. You've got up here the property owner you're going to charge the up to 50%. It was my understanding from Mr. Frederick that was here at the tax appeal, that the people out there at Wagamon's West Shores do not own these panels. Now who is going to be responsible, the homeowner or the people who own the panels?

Seth Thompson: Right. And again, it was pretty clear based on what we heard, in terms of how they're installed and how significant it is to remove them, that they're an improvement to the property and they should be taxed. The whole notion of ownership really doesn't... It's as if I sold a room in my house to my sister or my sister is leasing it. That wouldn't affect the property taxes that are owed on that particular parcel. There isn't a distinction in law between... I understand that they sign these things as a lease; but the bottom line is when it comes to defining something as an improvement, ownership doesn't factor in. It's how it's attached to the property and whether it improves the land that way. So in the 50% again, that's purely a placeholder. If Council wants to exclude 100%, then that's fine. That's what we can do, but Councilman West I understand your concern.

Councilman West: What is the Federal Government's tax break?

Seth Thompson: That's on the purchase. That's not a property tax issue.

Councilman Collier: It's a different issue.

Vice Mayor Booros: Have we done the research to see what the other municipalities on the Eastern Shore are doing?

Seth Thompson: If I'm not mistaken, Maryland has... I want to say Maryland State, it might only be a few counties, but there are towns and counties in a few states, California is definitely a state that addressed this...

Vice Mayor Booros: There were six or seven states that don't allow you to tax them. I knew there were at least six, maybe seven.

Councilman Collier: I found evidence of two states that have ordinances that prohibit tax assessments on solar energy.

Vice Mayor Booros: There are seven.

Councilman Collier: I found two, but there may be seven.

Seth Thompson: I think it's interesting, because that kind of supports the point that's really the proper means of dealing with this; rather than pretending that it's not an improvement to the property. Again, it could be that the Council decides our means of supporting green energy is to give an exception to the assessment, in perpetuity. I'd put a timeframe on there; really the 20 years I got from the fact that I think that's what they said their leases were. If they ended up purchasing the system, after their lease was up, at that point their tax exemption would have expired.

Councilwoman Patterson: Because they wouldn't, because it's a depreciating asset, because the solar panels lose their efficacy after a certain amount of time.

Seth Thompson: That's the same with any improvement. When the appraiser goes out...

Councilwoman Patterson: They don't work, so I'm confused.

Mayor Jones: What happens to the solar panels when a house is sold?

Seth Thompson: I think the testimony last time was that the new owner would be able to assume the lease and if that wasn't the case, then the current owner would have to have them removed, I believe.

Mayor Jones: That interests me as to what... I guess it's hypothetical to know whether or not that home sale is represented as solar energy and how that affects the value that is placed on that home for sale. That's something I may not know. I'm not in the real estate market, but I can't help but think that it is a drawing point for those who really look for that and otherwise, people don't care. My point is, it was stated in the media that we, Milton, was the only town; the only town, that did not have a policy governing solar energy. So, what I'd like to know is are there all these examples out here in our neighboring municipalities that have addressed solar energy. If so, of course, we would want to see what those policies were, because there is no sense in reinventing the wheel. But from the comment in the media, there must be a lot of them out there.

Seth Thompson: I think it would be inaccurate to say that Milton is the only municipality that hasn't addressed this.

Mayor Jones: I'm just repeating the story. It says we were the only, so taking it seriously and getting after it and addressing this, I'd also like to know if a geothermal well really is considered green energy, truly green energy, because I'm not certain of that, before you were to include it in here. We're reviewing this for a potential for a public hearing on this issue. Is that correct?

Seth Thompson: This isn't one that requires a public hearing. You can certainly have one, but it's not a zoning issue, it's a tax assessment issue.

Mayor Jones: Okay, we did have a couple of people that were present for the Wagon's West Shores and if you'll be very brief and step to the microphone.

Margo Goodman, 118 Carriage Drive: John Sertack was here earlier and he said if the new owners, should we sell did not want them, they'd be taken right down. So right there, the company has answered that question. The contract is 20 years. It is a 20 year lease. Within that, we do not take the tax deduction off our income taxes every year, the Clean Energy does. So they are getting the tax deduction and write-off. We are not the owners. We do pay the premiums each month for having the solar panels on there and within the 20 years that we do, if we sell, it is transferrable. If not, we can have them

taken down.

Mayor Jones: So basically, the benefit to the homeowner is the reduction in energy costs?

Margo Goodman: Yes, but we still also pay Delmarva Power each month.

Vice Mayor Booros: You're not selling back to the grid? They're selling back to the grid.

Margo Goodman: We do not. That's correct, they're benefitting off of that. The most that we can get is up to 40%.

Seth Thompson: Ms. Goodman, maybe I was confused or maybe I misheard Mr. Heinrich last time, but if the purchaser didn't want the unit or didn't want the system, would the owner or would the person leasing the unit, need to pay to have it removed? Do you remember?

Margo Goodman: Actually, when John discussed it, he said they would come out. He did not indicate who paid the expense.

Mayor Jones: For the removal?

Margo Goodman: Yes, that's correct.

Vice Mayor Booros: If you break the lease, let's say you have it there five years and sell the house and they don't want it, you're breaking the 20 year lease in five years. Is there a penalty for breaking the 20 year lease in 5 years?

Margo Goodman: There is not, as John told us in our one on one meeting and they would come out and remove them.

Vice Mayor Booros: What's the purpose in signing a 20 year lease, if you can break it in four years when I sell the house? There's got to be...

Margo Goodman: Well, no one's looking ahead at moving in five years if we're going to put something on for 20 years and moving into a transaction like that.

Mayor Jones: Would you come to the microphone to make your comment?

Brian Lonergan, 106 Wagamons: We have a little difference of opinion, this young woman and myself as to what the lease actually does hold. You have a 20 year obligation under that scenario. If you sell the house, you either have to purchase them, depending on who you sell it to; they can assume the lease or if not, you have to purchase out the lease. So if I have 15 years to go, I've got to pony up \$20,000; it's a decreasing term, that shows you what the value is; each year it goes down. So I would have to pay that to buy it, whether I can ask more in my asking price for that, or whether I just take the hit...

Vice Mayor Booros: He said he would take them off.

Brian Lonergan: At the end of 20 years they will take them off.

Vice Mayor Booros: But not at the end of five years, if you sell the house?

Brian Lonergan: Not at the end of five years, no.

Vice Mayor Booros: If you sell the house and the buyer doesn't want it.

Brian Lonergan: No, you have to buy them out. So there's a little difference of opinion as to what her understanding is and my understanding what it is, so that's basically the point I wanted to clarify because it was your question as to what... if there's anything else on the lease or if you have any questions, to the best of my memory, I'd certainly be glad to give it to you. The only comment I want to make generally about this, it's a procedural question. I assume Mr. Thompson you prepared this, so the Council hasn't discussed this at all yet?

Seth Thompson: That's right. That's why we have a first reading.

Brian Lonergan: So it might turn out to be no tax credit, or it could be 100% tax credit

or whatever and that would be determined how; because I was a little confused when you said that you don't have to have a public hearing on this. Where and when is that determined so that some input could happen at that point?

Seth Thompson: When I said they don't have to have a public hearing on this, they can. When it comes to a zoning ordinance, that law requires a public hearing. When it comes to something that's not involving zoning, they can act without public input. Now they always have public participation at their regular meetings, so that's often how they receive input, but people often reach out to council members when they see them in town, that sort of thing.

Brian Lonergan: I just was wondering... There are arguments for this; some people are acting on some confusion, I'll bring my lease, if it's necessary, if you need to see that, but I just didn't want the decision to be made without some discussion and we knew what the reasoning was. I must say I'm a bit of a Jesuit and I like to see common sense reasoning and you can certainly see there could be some of that on both sides of the issue and I look at something like the tax board discussion that we had, we talked about the fact that energy is energy is energy; you don't tax my propane tank, which is in the ground, yet you want to tax the energy I make by the sun. I'm not saying that you're wrong or anything. I'm just making the point and you could probably make some points as well, but I just think all those points should have an opportunity to be made and we all know why you're basing your decision that was brought up tonight. Did we survey anybody, local communities, to find out what they're doing in Delaware? I don't want to say I disagree with the Mayor, my memory of exactly what was said, not in the newspaper article, but I know that Mr. Serreck, was that of all the places they've placed solar in Delaware, none of the were ever taxed. That doesn't mean every community in Delaware does the same thing.

Mayor Jones: Well then, it was a statement in the media.

Brian Longeran: Some poetic license is taken by the media.

Mayor Jones: Exactly, it was a statement in the media, however, this brings me to a point since this man represents the homeowner's in Wagamon's West Shores, I wonder if he would be willing, through your request, Mr. Serreck...

Brian Lonergan: He was here tonight.

Mayor Jones: I understand that, but you just made a statement that he made the statement that nowhere else in the State of Delaware that he serves, taxes him. Would he be willing to offer this Council and this Solicitor, a list of those locations?

Brian Lonergan: I could certainly ask him for you. I can contact him. It's not that big a deal.

Mayor Jones: It would be helpful, that would be helpful. Because the state does not hold a statewide law against it, so it is up to each municipality and/or the county, so that information coming from that contractor could be very helpful in how we research this.

Brian Longeran: And if you guys survey, and say you survey 20 communities in the area and you find that 19 don't and one does, tax, that's important information as well. So I don't know if it's important if it's 19, but if it's 6 that do and 8 that don't, obviously that kind of throws it up in the air a little bit, as far as trying to be consistent. Thank you and I will ask Mr. Serreck for you to get that information.

Mayor Jones: Thank you. I would think that this additional information will help the Town decide by looking at what others do. I'm sure that the County... well I'm not sure that the County has a policy at all on it.

Seth Thompson: I don't believe they do. I don't believe that the county has adopted...

Councilwoman Patterson: I also want to let Council know, I just looked it up real quick, that geothermal is green energy, because it's clean, sustainable and renewable energy; it's using the Earth's heat to cool and heat your house, so technically it's green energy. So I just wanted to put that out there.

Vice Mayor Booros: Yes and I was told, I said it in the beginning, that we did not tax geothermal wells when they were installed.

Seth Thompson: I thought that, as well, but the assessor didn't.

Vice Mayor Booros: That is definitely an improvement.

Nina Martin: Everything we've heard about the solar energy is a good, going forward, positive thing and that's where we were coming from, the green energy to go forward, the Federal Government is behind it and I was told the State of Maryland has a law against taxing any kind of green energy. I would really like to see Milton, for a change, go forward and do something really positive and this is a very positive thing, not just for me, it's for the country, it's for the good of the United States. This is green energy. I would really like us to put our foot forward, positively. I'd like to be proud of living here. Thank you.

Mayor Jones: You don't have a dog in the fight, but I'll give you a very brief moment.

Gwendolyn Jones: I have contacted three different company's regarding solar panels to get estimates and figures and things like that, regarding the wind, the solar, the geothermal; these are each headaches, expenses, investments, etc., to try to improve the environment, to take the load off the power grid, as the woman said here to put a foot forward and try to take advantage of some of the energy saving things that a lot of people are talking about and _____ in some states, I think it was Washington and Oregon; they tax the Toyota Prius which is a 50 mile per gallon car. They tax it extra, because it gets less fuel mileage and to me that was totally counter-productive, because you're trying to save government dockside production, we're trying to save gasoline uses, etc., etc., I think it was counter-productive. I advocate not taxing these energy saving things, because they're an improvement for everybody and as the gentleman said, they are decreasing, they have a certain life span, so it's not like it's an everlasting improvement to the house. Thank you.

Mayor Jones: And Ms. Martin, I just want to reiterate a question that you asked earlier and that was about town staff's response to Mr. Serteck. He did receive a respectful response when he made an inquiry and I just want to reassure you that he did receive a response from our Town Hall. My sense is he did not agree with it, but it does not mean he didn't receive it and by his own notion here this evening, he noted that he had gotten an answer, so to pursue it and expand on it, would have been his responsibility and he's not here tonight, so I really don't want to take anymore discussion on it. No more...

Nina Martin: I've got the right.

Mayor Jones: Actually, Ms. Martin, you brought the point during public participation and we assured and confirmed that he had been contacted. I'm just making this statement again, to assure you that he was not ignored in this respect.

Nina Martin: I did that for a person. We were told that he had not gotten an answer and I wanted it clarified, because she had made it very emphatic at the meeting that she contacted him. He was here and I wanted him to hear that. Then he told us that he had been.

Mayor Jones: That he had been. Okay, I just want to make sure...

Nina Martin: That's not what he had told us before.

Mayor Jones: Okay, then I'm very glad that you brought the point up in public. Thank you.

Nina Martin: I was going to go to her after the meeting and explain why I did.

Mayor Jones: Then thank you. That was a great point that you made then. So we're going to agree that as quickly as we can get information on surrounding areas that have dealt with this particular contractor and can review other policies that may or may not exist yet, we will bring this back so if we tabled it this evening, we really don't have a definite date. Is that acceptable?

Seth Thompson: Actually tax appeal's are on next week's agenda? But it wasn't this particular ordinance.

Mayor Jones: Okay.

Seth Thompson: It will have to be next month.

Councilman Collier: I'd like to ask for a little more information, besides what surrounding communities are doing. We have at least three houses in this Town who've had solar systems long before these folks installed theirs and I haven't seen any of them taxed.

Vice Mayor Booros: I know that the one on Walnut is taxed.

Mayor Jones: Now.

Councilman Collier: But I would just like to know how they were treated and as well as your question about a geothermal well...

Vice Mayor Booros: The same homeowner has indicated that the year they installed the geothermal, was the only improvement where they got a building permit that year and that their taxes did go up that particular year.

Councilman Collier: I have a sense that based on testimony we heard, that the triggering effect for the assessor in this case, was the fact that they were listed on the permit as home improvement and I understand this and supporting documentation that goes with that, but I've got a feeling he looked at home improvements and this goes up and didn't look at the supporting documentation, so that's why I'd like all of these to be looked into, just to see how they were treated. If it's going to impact the people that are here with the questions, it's also going to impact those who have not come forward yet, so we need to have all that information is my feeling. And that's all I would ask for then, a little bit of additional information, in addition to what's going on around us in other communities.

Mayor Jones: So can I hear a motion to table this issue.

Councilman West: I make a motion to table this until we get more facts and figures together.

Councilwoman Patterson: I second.

Mayor Jones: All in favor say aye. Opposed. Motion is carried.

16. Executive Session:

- a. Personnel matters in which the names, competencies and abilities of individual employees are discussed

Mayor Jones: Motion to go into Executive Session.

Councilman West: I make a motion to go into Executive Session.

Councilwoman Patterson: Second.

Mayor Jones: All in favor say aye. Opposed. Motion carried. A motion to come out of

Executive Session.

Councilman West: I make a motion to come out of Executive Session.

Councilman Coté: Second.

Mayor Jones: All in favor say aye. Opposed. Motion is carried.

17. Discussion and possible vote on Executive Session items

Councilman Collier: I make a motion to accept the recommendations of the Personnel Committee as stated in Executive Session.

Councilman West: I second that.

Mayor Jones: Any discussion? All those in favor say aye. Opposed. Motion carried.

18. Adjournment

Vice Mayor Booros: I make a motion to adjourn.

Councilman West: Second.

Mayor Jones: All in favor say aye. Opposed. Motion carried. Meeting adjourned at 10:03 p.m.